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Policy Review

Poverty in the United States: A Reevaluation
MORTON PAGLIN

The Settlements and Peace
DOUGLAS J. FEITH

Federal Spending Limitations: An Idea Whose Time Has Come?
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The IRS and the Private Schools
DONALD J. SENESE

Can the President Alone Abrogate a Treaty?
BARRY M. GOLDWATER EDWARD M. KENNEDY

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Inside Policy Review

MORTON PAGLIN is professor of economics at Portland State University. He received his Ph.D. from the University of California at Berkeley where he was also on the faculty. He has held a Ford faculty fellowship in economics and recently a fellowship from the Hoover Institution, Stanford, California. Dr. Paglin has published extensively in such journals as *Economica, The National Tax Journal,* and *The American Economic Review.*

This article in *Policy Review* is based on research data from his book, *Poverty and Transfers in Kind,* to be published later this year by the Hoover Institution Press which granted permission to use this material.

The official Census poverty statistics, according to Dr. Paglin, indicate that from 1968-1977 the number of persons classified as poor remained almost the same (25 million). Yet this was a period of tremendous expansion in programs to aid the poor. This seeming contradiction cannot be explained by the low target efficiency of poverty programs, a slowing of economic growth, or work disincentives. Dr. Paglin points out that the official poverty counts show little decline because the estimates are based on money incomes only. "Hence, multi-billion dollar programs such as food stamps, public housing, and medicaid are deemed of no value to the poor." After adjusting the Census income figures for under-reporting, taxes, and other factors, Dr. Paglin adds the market value of in-kind transfers to the low-income segment of the income distribution to arrive at new estimates of poverty. Dr. Paglin's figures show a decline in poverty over the entire period, 1959-1975. Post in-kind transfer poverty rates fell from 17.6 percent in 1959 to 3.6 percent in 1975; the number of poor fell from 31.1 million in 1959 to 7.76 million in 1975, a fall of 75 percent. "It is time," suggests Dr. Paglin, "that the statistical veil be lifted so the poverty problem can be seen in its true dimensions."

DOUGLAS J. FEITH is a *magna cum laude* graduate of both Harvard College and of the Georgetown University Law Center. He is currently an associate with the law firm of Fried, Frank, Harris, Shriver & Kampelman in Washington, D.C.

The Carter Administration's abandonment, according to Mr. Feith, of a mediating role in the Arab-Israeli conflict and adoption of a push for Israeli withdrawal from Judea-Samaria (the West Bank) have undermined U.S. trustworthiness in the eyes of Israel. Mr. Feith argues that this action represents a challenge to Israel's legitimacy as a state and also discourages Arab moderation "by demonstrating that the Arabs can win as many benefits from the United States by refusing to make concessions as they can by resigning the war against Israel and signing a peace treaty." Mr. Feith proposes that the U.S. should abandon the mistaken view that the West Bank is the crux of the conflict, acknowledge that the crux is really the Arab refusal to accept a Jewish state in Palestine, and confine itself to the role of mediator, thus informing Damascus, Amman, the Palestinian Arabs, and Riyadh that "if they want an alteration in Jerusalem's policies they had

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best start negotiating with Jerusalem, as Sadat has done, and quit relying on Washington to 'deliver' the Israelis."

JEFFREY T. BERGNER is a Legislative Assistant to Senator Richard Lugar of Indiana. After receiving his Ph.D. degree in political science he taught at the University of Michigan and the University of Pennsylvania.

Citing the proposal to limit government spending to a given percentage of the Gross National Product as an issue "likely to pervade the entire taxing and budgetary policies of the next Congress," Dr. Bergner argues for its implementation. In answer to those who argue that spending limitations are not necessary or prudent, Dr. Bergner states in this article that "the federal share of the Gross National Product has increased by well over 15 percent in the last fifteen years" and suggests that this measure would be "the single most prudent and far-sighted action which the Congress could possibly take." And, in answer to those who argue that spending limitations are not desirable and that the federal government has grown because it is a "natural" provider of services, Dr. Bergner points to the quality of the post office in comparison to private parcel services and state-run hospitals in comparison to private hospitals. "There is not the slightest reason in theory or practice," writes Dr. Bergner, "to assume that the growth of the service sector must find as its national counterpart the growth of the public sector."

The author thanks Mitchell Daniels for several suggestions.

DANIEL PATRICK MOYNIHAN is a Senator from New York and a former Ambassador to the United Nations.

Elaborating on a previous article written for *Policy Review* (Fall 1978), Senator Moynihan cites several more examples of "semantic infiltration."

MELVYN B. KRAUSS is professor of economics at New York University and the author of *The New Protectionism: The Welfare State and International Trade*, newly published by the International Center for Economic Policy Studies in New York City.

In this article (drawing on material from his book), Dr. Krauss discusses the "new protectionism" which has been motivated by the desire to extend "the concept of political rights to the economic arena." The vehicles for this "new protectionism" are more likely to be government loans or tax breaks to individual firms, than tariffs or export subsidies, making this new brand of protectionism a much more direct threat to the free market economy and concentrating enormous amounts of economic power in the hands of government officials and politicians. If this "new protectionism" is continued by the U.S. into the 1980s when it is likely that new competitors from the less developed countries will enter the market, Dr. Krauss argues that "foreign retaliation is a virtual necessity." A better policy for the U.S. would be to allow the industries of developed countries to "sink or swim." The essential irony of the "new protectionism" and of the welfare state of

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which this trend is a manifestation is that it is "self-destructive"—it keeps resources in less productive uses and, hence, is not sustainable in the long run.

DONALD J. SENESE is a Senior Research Associate with the Republican Study Committee in the United States House of Representatives.

Dr. Senese received his Ph.D. in history from the University of South Carolina. He served as an associate professor of history at Radford College, Virginia. He now serves on the Executive Committee of the University Professors for Academic Order. Dr. Senese has recently written *Indexing the Inflationary Impact of Taxes: The Necessary Economic Reform* (published by The Heritage Foundation, 1978).

In this article, Dr. Senese analyzes the possible effects of the new "revenue procedure" proposed by the Internal Revenue Service (published in the *Federal Register* of August 22, 1978) which formulates criteria to remove the tax exemption of private schools if they are found to be racially discriminatory. Dr. Senese argues that the IRS already has exercised the power to deny tax exemption to private schools which practice racial discrimination and this new proposed measure grants far more power than the IRS needs to accomplish its stated purposes and, in reality, represents a major threat to the continued existence and viability of private schools. He traces the problem to the historic conflict between the monopoly claim of the state over public education and the claims of private schools to exist without excessive governmental interference. He studies the growing opposition to these proposed regulations and refers to them as "just another threat" to the existence of private schools. "They have been down the road before," writes Dr. Senese, "and remain determined to maintain a viable, alternative education system in American society."

MILAN B. SKACEL is President of the Chamber of Commerce of Latin America in the United States. A foreign policy specialist, he was formerly general manager of Foreign News Service and editor of the 1966 study by the Committee on the Judiciary of the United States Senate on the anatomy of communist takeovers. In 1961 he served as consultant to then President-elect John F. Kennedy's Task Force on Latin America.

Although Mr. Skacel, in *Policy Review*, commends President Carter and Secretary of State Vance "for their courage and determination in bringing the Panama Canal issue to a resolution" (he believes the Latin Americans viewed this problem as the "acid test of America's goodwill and good faith"), he argues that U.S. policy toward Latin America lacks cohesiveness and direction and glosses over the root causes of hemispheric problems. Mr. Skacel proposes "a conceptual framework within which a policy for Latin America should be formulated." This policy should be based on the realization that the era of U.S. paternalism is over and that our campaign to export our brand of democracy must come to an end. Americans must discard delusions that every self-styled "progressive" is humanitarian and that "all military men are Neanderthals." We must cease treating Latin Americans as "unwanted orphans" and grant economic concessions to them

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which, though causing short-range U.S. economic dislocations, would in the long run strengthen our relations with Latin America.

SHIRLEY ROBIN LETWIN received her Ph.D. from the University of Chicago and has taught at several institutions including Cornell University, Brandeis University, Harvard and the London School of Economics. She is the author of numerous essays and two books, *Human Freedom* and *The Pursuit of Certainty*.

The term "authoritarian" has wrongly come to be used to describe any government of which we disapprove, argues Dr. Letwin in this article. In order to make sensible decisions in foreign policy, democratic governments especially must be clear in their use of language (as Senator Moynihan points out elsewhere in this issue).

EUGENE McALLISTER received the M.A. degree in economics from the University of California at Davis and is currently a Walker Fellow at The Heritage Foundation. He is the author of one of the appendices in *Forty Centuries of Wage and Price Controls: How Not to Fight Inflation* (by Robert L. Schuettinger and Eamonn F. Butler; to be officially published by The Heritage Foundation on April 15, 1979). His article in *Policy Review* is adapted from that appendix.

Mr. McAllister, in this short analysis, predicts that the fate of President Carter's proposed real-wage insurance as a part of Phase II of his battle against inflation is "extremely dubious." Adherence to these guidelines would impose real costs on the employees and result in the lowering of future wage increases. In fact, maintains Mr. McAllister, "there would seem to be an incentive to ignore the real-wage insurance from the standpoint of both present and future returns."

ERNEST VAN DEN HAAG divides his time between teaching criminology at the Law School of the State University of New York at Albany and sociology at the New School for Social Research. A prolific author, he has contributed to many journals including *Encounter* and *The Public Interest*. His latest book is entitled *Punishing Criminals*. Always thought-provoking, Dr. van den Haag has written a particularly provocative article on foreign policy (among his many other interests, he is an active member of the Council on Foreign Relations) for this issue of *Policy Review*.

The United States, according to Dr. van den Haag, is wasting much of its available military strength in an irrational deployment of troops and defrayal of costs to allies now able to shoulder these burdens. Dr. van den Haag suggests a phased withdrawal of American troops from Japan and South Korea, and ultimately from Europe (although, because of some of the current difficulties of democratic European governments, "this is not the moment to withdraw"). On the other hand, the U.S. has failed to support "those willing to fight for themselves and, indirectly, for us." Dr. van den Haag cites China as an example and suggests that the U.S. equip

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that nation with ground-to-air missiles and anti-tank weapons. This stance, he argues, is not isolationist; "to oppose isolationism is not the same as to volunteer to shoulder the burden of world defense."

POLICY REVIEW, in this issue, publishes a debate on an important issue of both foreign policy and constitutional law between Senators BARRY M. GOLDWATER and EDWARD M. KENNEDY. Their articles were adapted by them from longer and more detailed versions to be published in the *American Bar Association Journal* (February 1979).

In response to President Carter's announcement of the termination of the defense treaty with the Republic of China, Senator BARRY M. GOLDWATER has asked the U.S. District Court "to declare the President's action unconstitutional and illegal and to set aside his purported notice to cancel the treaty as having no effect." The question is not, he maintains, whether any past precedents justify the President's assertion of independent power, although of the forty-nine instances in which treaties have been terminated or suspended by the U.S., the four treaties cancelled by the President alone can be explained in terms of contract law. The central question in this issue, states Senator Goldwater, is whether President Carter's action represents the intent of the Framers of the Constitution. Senator Goldwater argues that it does not; if left unchallenged, President Carter's unilateral action will set a dangerous precedent.

Senator EDWARD M. KENNEDY, in this article, argues that the challenge by Senator Goldwater and others of President Carter's authority to terminate the defense treaty with the Republic of China "threatens to sidetrack one of the most important foreign policy initiatives of recent history into domestic constitutional controversy." Citing fourteen occasions on which Presidents have given notice of treaty termination, Sen. Kennedy objects to Sen. Goldwater's dismissal of these exercises of Presidential power as "exceptions." The Framers of the Constitution, he argues, feared "entangling" alliances and, therefore, required legislative approval of treaties, but manifested no similar concern with disentanglement from alliances. "Law, practice and policy clearly support the President's notice of termination," argues Senator Kennedy. "The proper course for senators who are troubled by the President's independent authority to terminate a particular treaty," suggests Senator Kennedy, is to "seek to condition Senate approval upon acceptance of the Senate's participation in its termination." The Senate might have done so with the ROC defense treaty, but it did not.

Reviews of books were written by JAMES T. BENNETT and MANUEL H. JOHNSON (professors of economics at George Mason University), JOHN C. GOODMAN (professor of economics at the University of Dallas) ONALEE McGRAW (education consultant for The Heritage Foundation), and ROBERT BLAKE (Ph.D. candidate at the University of London).

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Poverty in the United States: A Reevaluation

MORTON PAGLIN

Historically, long-term growth in the U.S. economy has produced a significant rise in household incomes and a consequent decline in poverty. A major objective of government policy has been to accelerate the reduction in poverty through large-scale transfer programs. However, in the last decade, the official statistics on the low-income population have generated a dismal view of the performance of the economy in eliminating poverty: in 1977 the number of persons classified as poor (24.7 million) was almost the same as in 1968, and yet this statistical plateau coincided with an enormous expansion in the income-tested social programs. Is it possible that the additional billions of dollars spent each year on transfers to the poor were so target-inefficient that they brought no results? Or did the faltering growth rate in the economy lead to a stagnation or decline in the real earnings of low-income households? Alternatively, perhaps the work disincentives (high implicit marginal tax rates) inherent in our multiple benefit welfare system produced a dollar for dollar substitution of transfer income for earned income.

There are, of course, adverse effects attributable to all three factors — lower target efficiency, slowing growth rate, and work-disincentives — but they were not strong enough to produce an abrupt termination of the long-term decline in the poverty population. The overlapping cash and in-kind welfare programs have suffered a small drop in overall target efficiency but, as we shall see, not enough to offset the growth in budgets. Although labor productivity gains and economic growth have slowed, the significant increase in the labor-force resulting from higher participation rates by women has raised household incomes, at least for families with earnings as their main source of income. And while transfer programs do have work-disincentive effects for a substantial number of persons, large portions of the transfers have also gone to the low-income elderly, the disabled, female-headed households with young

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children, and other groups that generally are outside the labor market. Many of these persons were raised above the poverty line by the more generous multiple welfare programs of the Great Society era, though they would not have increased their incomes appreciably through earnings. Thus, while some may have substituted transfer income for earnings, it was clearly not one hundred percent – transfers *do* have some net anti-poverty effect.

What then has been left out of the picture? This brings us to the crucial omitted factor: the reason that official poverty statistics show little decline in the last decade is simply that they are inadequate in measuring the real improvement which has in fact taken place in low-income households. This failure is related to the definition of income and the definition of the consuming unit employed by the Bureau of Census. To bring these deficiencies into focus, it will be helpful to examine the official poverty standard and its relationship to the Census income concept.

The definition of poverty starts with the concept of a nutritionally adequate diet and is extended by means of a food-total-expenditure multiplier to a minimum adequate amount of other necessities. Families with money incomes insufficient to purchase this minimum amount of food and other necessities are officially designated as "in poverty" or "low-income families," and their numbers and characteristics are published regularly in the Census *Current Population Reports* (CPR). This is the basic data source for scholars and policy analysts concerned with the extent of poverty. Yet, by using and widely disseminating the Census Current Population Survey (CPS) figures, we are grossly distorting the extent of the poverty problem. Poverty is defined and has meaning in real terms, namely, households suffering from inadequate consumption of food, housing, medical care, and other essentials. But the measuring rod used in the Current Population Survey is money income only. Hence, the impact of our major in-kind programs directed at relieving poverty is statistically nullified: food stamps and child nutrition, rent supplements and public housing, medicaid, and so on – all multi-billion dollar programs which now constitute about sixty percent of the income-tested transfer budget – are deemed to have no value to low-income households. This article will attempt to remedy the deficiency by analyzing the trend and current extent of poverty after

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estimating the value of transfers-in-kind.[1]

How should the in-kind transfers received by low-income households be valued or "cashed out"? Three methods have been suggested: (1) The in-kind transfers can be valued at government cost as shown in the budgets of the federal, state and local governments involved in the programs. (These costs are summarized annually in the *Budget of the United States, Appendix*.) (2) The in-kind transfers can be cashed out at values approximating the market prices of closely comparable goods or services; in some cases, as in food stamps, this merely involves subtracting all administrative costs from the agency budget, that is, using the bonus value of the food stamps issued. (3) Some economists would further reduce market values by estimating the cash-equivalent values of the in-kind transfers to the recipient. These lower cash-equivalent values are supposed to be adjusted for the utility lost when a household is given a more restrictive transfer in-kind rather than in cash. Put another way, it represents an estimate of the sum of money which the household would take in lieu of the in-kind transfer; this could be the same as market value if the household's expenditure pattern is not significantly changed by, for example, receiving food stamps instead of a cash transfer equal to the bonus value of the stamps.

Cashing Out In-Kind Transfers

The method adopted here is to cash out in-kind transfers at market value. In part, the reason for adopting market values rather than cash equivalents (derived from subjective utility functions) is related to the official definition of poverty and its measurement. Theoretically, two approaches to the measurement of poverty may be contrasted. The first, an objective market-basket approach, usually relies on expert judgment to define needs; the experts may draw on data from the fields of nutrition, health care, housing, and so on, and also on household expenditure data to define or identify minimum requirements – and hence the income level defining the poverty

1. Note that all cash welfare transfers *are* included as income in the Census Current Population Survey, but the non-cash or in-kind assistance programs such as those cited above are excluded. In 1959 when the in-kind programs were small this omission was of minor consequence; now their exclusion results in a gross distortion of the poverty problem.

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threshold. A second approach is based on a subjective evaluation by each household of its income in relation to its basic needs; hence, there would be a self-classification of poverty or non-poverty status by each household. This contrasts with the objective standard whereby a family's poverty status is decided by someone outside who evaluates the family's income and needs according to "objective" criteria. The official definition used by Census in estimating the poverty population is an objective standard. It was developed by a group in the Social Security Administration (SSA) and was first described by Mollie Orshansky in the *Social Security Bulletin*, January 1965.

The central building block of this official standard was the household's nutritive requirements which were derived from studies done by the National Research Council on recommended dietary allowances (RDA) of protein, carbohydrates, fats, vitamins, and so on. These nutritional needs (elaborated by family size and composition) were not programmed into a minimum cost food package, but were used by the Department of Agriculture to develop an "economy food plan" which considered prevailing tastes and methods of food preparation. This economy food plan, "costed out" on an annual basis for a given size household, became the first segment of the poverty threshold income.

How much was to be allowed for other necessities? Here, the SSA study group looked in vain for minimum standards of adequacy in health care, housing, and other basics. Given the large gaps in expert knowledge of such needs, the poverty specialists resorted to average consumer behavior as revealed in two surveys of consumer expenditures: one prepared by the U.S. Department of Agriculture in 1955 and the other done by the Bureau of Labor Statistics in 1960-61. These studies showed that low-middle income urban families spent about one-third of their income on food. Thus, the cost of the economy food plan was multiplied by three in order to generate the poverty thresholds. The reasoning was that if typical low-middle income families spent three times their food budget for all their basic needs, then three times a nutritionally adequate food budget would be adequate for all needs as well. (For single persons and couples the multipliers were raised in order to reflect the diseconomies of small household units.) The poverty income thresholds are now updated each year from the original 1963

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thresholds and extended backward to 1959, by applying the BLS consumer price index.

The emphasis since the 1965 Orshansky article appeared has been on a more detailed specification of the needs of the poverty population, and federal anti-poverty programs have been developed to meet these needs. The poverty professionals have typically viewed the components of the poverty thresholds as in large part open to objective, expert assessment, starting in the mid-nineteen sixties with family nutrition requirements and gradually becoming more target specific with the high protein foods for women, infants and children (the WIC program), type "A" school lunches, breakfast programs, milk programs, and so on. Food programs have been followed by standards for comprehensive medical care, for instance, health maintenance organizations (HMOs) and Medicaid, specifications for day-care centers, space and facility requirements for "safe and decent housing," and so on. Yet, when families are brought out of poverty by programs which deliver the required amounts of food, housing, and medical care, economists frequently evaluate the results from a different perspective, namely, that of the subjective utility and choice model. By reducing in-kind transfers (say, food stamps) to a lower cash-equivalent, families are classified as poor who may be consuming a set of commodities sufficient to meet the objective criteria of the poverty standard. Thus the utility approach is in conflict with the objective needs-based approach upon which the anti-poverty programs and the poverty standard have in large part been built. If the subjective evaluation of transfer income by the recipient is to be made the basis for determining poverty status, then we should be consistent and replace the objective definition of poverty thresholds with the previously mentioned individual welfare standard, namely, the subjective self-classification of poverty status rather than the objective sorting procedure now used.[2]

There is one final problem to be dealt with. In the original poverty standard the non-food components were not actually specified; rather, budget data were used to determine a sum of money sufficient for all the non-food items as a group, even

2. Survey questions necessary to elicit data for a subjective assessment of poverty and the uses of such a measure are discussed in Paglin, *Poverty and Transfers in Kind* (Forthcoming, Hoover Institution Press, Stanford, California, 1979) Ch. 1.

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though expertise was subsequently used to delineate many of these other requirements, particularly housing and medical care. Doesn't this mean that by using a market value approach we are over-valuing the non-food in-kind transfers? I believe the answer is no.

Even if we adopt a purely cash-income standard not built on expert assessment of basic needs, it is by no means clear that the in-kind transfers which make up only part of the income stream of low-income households have a lower cash-equivalent value when all elements in the picture are examined. The in-kind transfers have attributes which in certain ways make them superior to an earned cash income of like market value. Traditional economic analysis has focused almost exclusively on the *in-kind* attribute, neglecting the transfer and insurance attributes of the non-cash government programs.

Households receiving significant components of their income stream in the form of in-kind transfers do have less choice than cash income households, but in a broadly specified model the utility gains may be greater than the losses.

Advantages of Transfers-In-Kind

While there is some choice constraint, the households receiving a large part of their income from transfers-in-kind are free of the work-connected expenses in generating earned income; they have more leisure and are spared the monotony of dead-end jobs. Their in-kind income is free of inflation risk: food stamp allotments are revised every six months to keep up with food price changes; public housing tenants do not have to worry about increasing property taxes, escalating fuel and maintenance costs, and higher interest rates that usually are reflected in higher rents. Since the Sparkman and Brooke amendments to the 1969 Housing and Urban Development Act, local public housing authorities get federal subsidies to meet increased operating costs, and tenants are charged no more than 20 to 25 percent of their cash incomes, thus making their rents a declining percentage of real income as in-kind transfers have increased. Despite rapidly rising medical, hospital, and nursing-home costs, medicaid recipients receive a comprehensive package of medical services without concern for meeting the costs through higher charges or increasing medical insurance premiums. Finally, we may note that in-kind and other such need-based transfers are free of the risks of irregularity of

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earned income and are automatically indexed to the growth in the size of the family, thus eliminating the economic pressures associated with high fertility. Yet, economists in this area have selectively focused on just one dimension of the in-kind transfer: choice on the expenditure side.

The mistake made is in comparing in-kind transfers with a similarly indexed, risk-free, effortless cash transfer. Since most households live on earned income, the proper survey question to ask recipients who could work is this: would you give up your risk-free inflation-proof package of food stamps, rent subsidy, and medicaid coverage (say market value $300 per month) for a job at the minimum wage which after taxes, but before transportation costs, would pay you the same $300? I wonder how many would choose to work an additional 120 hours a month for the benefit of exchanging the in-kind transfers for the cash earnings? I believe most would reject the job as work with close to zero marginal gain, and for some a negative product; if so, then it makes no sense to deflate the market value of the in-kind transfers since they are preferred to an equal cash earned income. And, for those traditionally outside the labor force, the in-kind transfers still have an added insurance premium of some value which covers the risks of inflation in food, medical care, and housing as well as the other risks mentioned.

Adjustments to the Census Cash Income Poverty Estimates

Before adding the market value of in-kind transfers to the low-income segment of the income distribution, a number of adjustments to the CPS income and poverty figures must be made. These can be summarized under the following headings: (1) conversion of low-income thresholds from a family and individual basis to a household basis, (2) adjustment of income for under-reporting, (3) deduction of taxes to arrive at after-tax income suitable for use with the poverty thresholds.

The Current Population Survey uses families and single individuals as consumer units in determining incomes and poverty counts. Unrelated individuals age fourteen or older, living in groups or with families, are classified as poor if their incomes are insufficient to meet the minimum income requirements of a single person living alone. Given the fact that there are significant economies of scale in larger living units, and assuming some sharing of facilities and income, the poverty

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count is too high if it is not based on the income and costs of the functional living unit, namely the household. (The currently used approach assumes unrealistically that there are no economies of scale and no income sharing unless the persons making up the unit are all related by blood or marriage.) By using the CPS *household* income series which started in 1967, I have recalculated the poverty counts for each household size. For the period 1967-75, the household concept yields poverty estimates between 93 and 96 percent of the official figures. For the years 1959-66, the 1967 percentage revision was used.

The second adjustment of the CPS money income series deals with the problem of under-reporting of income. By comparing the CPS income estimates (by type of income) with independently arrived at totals from the National Income Accounts and administrative budget totals for transfer payments, it is apparent that CPS in recent years reports about 88-90 percent of total income. Under-reporting varies by type of income: wages and salaries approach 98 percent of the bench-mark total; public assistance, 75 percent; social security payments, 90 percent. Although under-reporting at the low (and high) end of the income scale is usually assumed to be greater than in the middle range, the low incomes were adjusted upward only by the overall average percentage under-reported; reasons for this conservative approach are given elsewhere.[3]

Finally, the CPS cash income concept is based on income before income taxes and social security taxes, while the poverty thresholds are based on net spendable income. Since estimates of the number of households not paying federal income taxes match closely with the number of low-income households below the poverty thresholds, particularly in the last twelve years, no revision for income tax was made.[4] Social security

3. *Ibid.*, Ch. 3. Note that the special (Census) Survey of Income and Education (SIE), which roughly trebled the CPS sample size and used personal rather than telephone interviews, came up with a poverty estimate for 1975 of 23,991,000 persons compared with the CPS figure of 25,877,000, a reduction of almost 1.9 million, probably due to fuller reporting of income. See *Current Population Report*, P-60, No. 106, p. 13.

4. While in earlier years some low-income households probably paid small amounts of income taxes, thus increasing the number of poor, this was more than offset by statistical factors pulling in the other direction: (1) the phantom poor included in the CPS poverty counts, and (2)

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taxes, however, do reduce the net incomes of poor households since close to half their total incomes is derived from earnings. Hence, these earnings have been reduced by the appropriate social security tax rate for the period 1959 to 1975.

The combined effect of the three cash income adjustments on persons in poverty results in revised estimates which range from 79 percent to 85 percent of the official number counted as poor.

Two general criteria have been used in selecting the in-kind programs for inclusion in the poverty income estimates: (1) A main purpose of the program should be the provision of services specifically to the low-income population through the use of eligibility tests based on income; or if categorical, as in the case of medicaid, the eligible categories should reflect previous screening for poverty characteristics. (2) The goods or services transferred should be private, not public goods, and should be items typically included in the budgets of low-income households. Hence, OEO and HUD Model Cities programs for neighborhood improvement in poor areas are not included because of their public-good characteristics; similarly excluded are legal services for the poor, social work services, subsidized day-care, and various educational and training programs, since

the effect of the earned income credit and other kinds of income excluded by Census.

The phantom poor, or pseudo-poor, include those in the under $1,000 income class who had zero census income or loss. Losses are mainly attributable to family farm operations, other types of small businesses, and persons with negative net rental incomes due to accelerated depreciation on real estate, and so on. The Congressional Budget Office provided me with a computer run of persons in poverty (FY 1976) which excluded the business-loss group from the poverty count; the poverty estimate was thereby reduced by 1,038,000 persons. This substantial group should be removed from the official poverty counts.

A second and related type of overstatement of poverty involves receipts not counted as income and includes all intra-family transfers, such as payments made to support young adults living on their own or support for elderly parents. Also included in poverty counts are income-poor who receive lump-sum inheritances or insurance settlements. More recently, the earned income credit, which is paid to large numbers of low-income families, would raise many above the poverty threshold if such payments were counted as income by Census.

I have not adjusted for these factors in my revised poverty counts because data for the entire period 1959 to 1975 are lacking.

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they are not common elements of the low-income household budgets. Finally, only the major federally initiated programs have been included, and all exclusively state and local in-kind services, as well as private charity services, have been excluded because of the paucity of data. Thus, the cashing out of in-kind transfers will be limited to the housing, food, and medical programs described below.

Housing, Nutrition, and Medical Services

In order to determine poverty impacts, the in-kind transfers were distributed by household size and income class from 1959

Table 1

TOTAL IN-KIND TRANSFERS TO THE POOR: HOUSING, FOOD, AND MEDICAL SERVICES*

Year	Housing	Food and Nutrition	Medical	Total Transfers to the Poor (Current $)	(1975 $)
1959	103.1	137.6	299.6	540.3	997.6
1960	118.0	95.8	333.9	547.7	995.5
1961	146.1	170.2	384.5	700.8	1260.9
1962	169.3	240.2	481.7	891.2	1585.8
1963	199.2	231.7	567.8	998.7	1755.5
1964	232.6	241.9	645.3	1128.8	1958.7
1965	256.4	260.4	736.3	1253.1	2137.7
1966	267.6	207.1	1066.7	1541.4	2556.2
1967	299.0	213.7	2092.4	2605.1	4199.7
1968	333.9	288.5	2835.0	3457.4	5348.7
1969	386.6	452.2	3513.3	4352.1	6389.9
1970	502.4	816.8	4014.3	5333.5	7392.2
1971	617.6	1674.1	4624.9	6916.6	9191.5
1972	818.4	2060.1	5289.7	8168.2	10508.4
1973	1008.3	2245.5	5961.9	9216.2	11161.7
1974	1153.0	3140.1	6761.6	11054.7	12064.5
1975	1328.2	4243.2	8501.1	14072.5	14072.5

* *In millions of dollars*

Source: M. Paglin, *Poverty and Transfers in Kind*, Ch. 3.

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through 1975; this was done on a program-by-program basis using mainly government agency documents and congressional committee reports. Initially, the segment of each program's budget allocated to the non-poor households was discarded as clearly having no antipoverty effect. Hence, as a first step there is shown in Table 1 the market value of transfers to the cash-income poor for the major housing, nutrition, and medical programs. This table was built up from thirteen detailed program tables showing market values and benefit allocations. (See Paglin, *Poverty and Transfers in Kind*, Appendix I.) The second step, involving calculation of "spillovers" and final target efficiency, will be discussed later.

Housing Programs

The income-tested housing programs cashed out were of four types: (1) low-rent public housing, either constructed, purchased, or leased by the local housing authorities, (2) interest subsidies for construction or rehabilitation of rental housing – known as Section 236, (3) interest subsidies for low-income home ownership – Section 235, and (4) rent supplements for use in units constructed under Section 236 so that low-income families could occupy these relatively expensive units, and rent supplements for other existing units.

Nutrition Programs

Six food and nutrition programs have been included in the list of in-kind transfers whose poverty impacts are analyzed. (1) The food distribution program provided free monthly allotments of commodities – thirty-nine pounds of food per person with selections made from a list of about twenty-four foods. The program was phased out in 1974 and has been replaced by the food stamp program, which for several years overlapped with it. (2) The food stamp program started small in 1962, but escalated in the mid 1970s to the second largest income-tested in-kind transfer program, exceeded only by Medicaid. Food stamp offices now cover every county in the United States and the budget is open-ended so that, unlike the housing programs, there is no waiting list or administrative rationing of benefits to eligibles. This open admissions characteristic also typifies the remaining nutrition programs: free school lunches, the school breakfast program (targeted to low-income school districts), the special milk program, and WIC – supplementary foods for women, infants and children.

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Medical Care Programs

The principal need-based personal medical care programs were cashed out using an insurance premium method rather than by distributing benefits on the basis of actual individual usage; the latter approach would raise inordinately the incomes of those receiving extensive medical and hospital care in any particular year. Generally, the benefits from each program were averaged among the persons participating in the program. All administrative costs were excluded in order to derive fairly conservative estimates of the value of the health coverage provided. The following programs were cashed out: (1) Medicaid and its predecessors, Medical Assistance (MA) and Medical Assistance for the Aged (MAA); (2) Medicare, but only for the Medicare elderly who were also poor and who received Medicaid tie-in coverage which paid their SMI premiums (hence, only about 15 percent of the Medicare vendor payments for hospital services are included); (3) Maternal and Child Health Care – a program which provides services to families in low-income areas (federal and state funds are used to operate maternity, pediatric, and dental clinics). Not included were OEO neighborhood health clinics and VA health and hospital programs which provide an indeterminate amount of health care for low-income veterans.

The aggregate market value of housing, food, and medical transfers to the poor are shown in Table 1. From 1959 to 1975, housing transfers to the poor in constant dollars went up 7.0 times, food and nutrition transfers 16.7 times, and medical services increased by 15.3 times the 1959 level. The change for all programs was 14.1 times the amount to the poor in 1959. Using constant (1975) dollars, the market value of income-tested in-kind transfers to the poor in 1959 was $998 million, whereas in 1975 it was just over $14 billion. Note that these figures do not represent total program costs or even market values; they are the market value of transfers to the pre-program poor.[5] In 1975 this was about 71 percent of the total market value of transfers generated by these programs.

Table 2 shows the final target efficiency of all programs combined after allowing for spillovers. Column 1 gives the total

5. The pre-program poor are those whose cash incomes are below the poverty threshold *before* we add on the in-kind benefits provided by the program under consideration.

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Table 2

TARGET EFFICIENCY MEASURES

Year	(1) Market Value of In-Kind Transfers (in Millions of Current $)	(2) Transfers to the Poor as % of In-Kind Transfers	(3) Target Efficiency: Col. (2) Adjusted for Spillovers
1959	981.7	55.0	51.7
1960	1011.5	54.1	50.9
1961	1245.7	56.3	52.7
1962	1513.9	58.9	54.9
1963	1676.6	59.6	55.5
1964	1856.6	60.8	56.5
1965	2072.9	60.5	56.1
1966	2441.6	63.1	58.3
1967	3683.1	70.7	64.0
1968	4917.9	70.3	60.9
1969	6172.5	70.5	59.4
1970	7534.0	70.8	58.3
1971	9851.9	70.2	54.8
1972	11769.4	69.4	51.4
1973	13455.0	68.5	50.8
1974	15499.9	71.3	47.9
1975	19680.4	71.5	45.0

Source: M. Paglin, *Poverty and Transfers in Kind*, Ch. 3, Table 6. For explanation of column headings, see text.

market value of the in-kind programs described earlier and includes amounts going to the non-poor. Column 2 shows the percentage of in-kind transfers distributed to those households with money incomes below the poverty thresholds. Column 3 provides an index of final target efficiency, namely, the percentage of total transfers shown in Column 2 adjusted downward to eliminate the benefits which spill over, that is, transfers which raise the household above the poverty threshold rather than just to the poverty line. With our uncoordinated multiple benefit welfare program, some cash-poor households may

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receive in-kind benefits from many agencies, thus giving them a combined money and in-kind income well above the poverty line. Such excess benefits do not reduce the poverty deficit or the number of the poor and in that sense are not target efficient. Of course, not all the target inefficient transfers are completely misdirected since some go to the near poor or provide more generous benefits to the poor. The high spill-overs in recent years also reflect the trade-offs between target efficiency and other social goals requiring a gradual phasing out of benefits after the poverty income has been reached, rather than an abrupt termination of benefits at the poverty threshold.

The effect of in-kind transfers on the distribution of income, especially below the poverty threshold, is shown for 1975 in Table 3. By converting household incomes into welfare ratios,

Table 3

DISTRIBUTION OF 1975 U.S. POPULATION BY POVERTY STATUS

(1) Welfare Ratio[a]	(2) Number of Persons (in thousands)		(3) Percentage Distribution		(4) Cumulative Percentages[b]	
	Census CPS	This Study Final Revised	Census CPS	This Study Final Revised	Census CPS	This Study Final Revised
0 to 0.49	7733	639	3.7	0.3	3.7	0.3
.5 to .74	7595	2874	3.6	1.4	7.3	1.7
.75 to .99	10550	4249	5.0	2.0	12.3	3.7
1.00 and up	184987	203102	87.7	96.3	100.0	100.0

[a]These four income intervals were converted from dollars to ratios of the poverty thresholds. This allowed us to combine income distributions for seven household size groups. (The first three class intervals represent the poor.) Census figures are from *Current Population Reports*, P-60, No. 106, p. 35.

[b]The cumulative 3.7 percent poor in the last column varies slightly from the 3.6 percent shown in Table 4 due to a small difference in population base used by CPS.

that is, dollar incomes expressed as a proportion of the poverty threshold for the appropriate household size, all size households could be combined into one meaningful distribution. Hence,

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in Table 3 the income classes are expressed as ratios of the poverty threshold with 1.0 equal to the poverty level income. It is noteworthy that the final revised distribution shows that the *very* poor (under .50 of the poverty threshold) have practically been eliminated by the in-kind transfer programs; in the official cash income statistics they number over 7.7 million persons, while in the post-in-kind transfer distribution they are reduced to 639 thousand. This is not surprising since the food stamp program alone provides assistance equal to about one-third of the poverty level income for such low-income families. Significant reductions are also evident across all the poverty income classes; for 1975 the official census poor number 25.877 million persons while the final revised estimate is 7.762 million. (These figures represent the cumulative totals of the numbers poor shown in the first three lines of Table 3, Column 2.)

Revised Poverty Estimates

The final estimates of poverty (1959 to 1975) after transfers and adjustments are shown in Table 4 and graphically presented in the accompanying Chart A. Both compare the official census estimates with our revised post-in-kind-transfer estimates. The top line of Chart A illustrates the widely-accepted official record of poverty in the U.S.: this indicates that from 1959 to 1968 the number of poor persons was reduced by 15 million, but in the period 1968 to 1975 no decline occurred, just fluctuations (see Table 4, Column 3). Yet, 1968-75 was a period when the market value of income-tested in-kind transfers went from $4.9 billion to $19.7 billion (Table 2, Column 1). The lower line in Chart A tells a different story, closer to reality. The downward trend in poverty has been maintained over the whole period, in the first half largely by increased earnings and cash transfers while in the second half by increased transfers-in-kind which are excluded from the top line. To what extent transfer income has in the latter period been substituted for earned income is a question which remains open. The high marginal tax rates implicit in the multiple benefit welfare system suggest that for those households with employable members, some substitution has occurred, though for other households factors of age, disability, or dependency, make this less likely.

The last two columns of Table 4 compare the official and the revised number of persons in poverty as a percentage of the

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population. The official poverty rates go from 22.4 percent in 1959 to 12.3 percent in 1975, while our revised post-in-kind-transfer poverty rates go from 17.6 percent to a low 3.6 percent. In terms of absolute numbers, the official figures are 39.5 million persons poor in 1959 and 25.9 million in 1975, a decline of 46 percent. Our final revised figures show 31.1 million poor in 1959 and 7.76 million persons in 1975, a fall of 75 percent in a seventeen year period — a remarkable

Table 4

OFFICIAL AND FINAL REVISED POVERTY ESTIMATES
(Rounded for Easy Reference)

Year	Poverty Deficit* (In Billions of 1975 $)		Persons in Poverty (In Millions of Persons)		(As % of Population)	
	(1) Census	(2) Final Revised	(3) Census	(4) Final Revised	(5) Census	(6) Final Revised
1959	25.2	19.4	39.5	31.1	22.4	17.6
1960	25.2	19.0	39.9	30.7	22.2	17.1
1961	25.5	19.3	39.6	30.4	21.9	16.6
1962	24.1	18.3	38.6	29.9	21.0	16.1
1963	22.7	17.1	36.4	29.0	19.5	15.4
1964	21.6	15.7	36.1	27.8	19.0	14.5
1965	20.3	15.0	33.2	25.7	17.3	13.3
1966	18.0	12.8	30.4	22.3	14.7	11.4
1967	17.0	10.2	27.8	18.4	14.2	9.3
1968	15.2	7.2	25.4	14.5	12.8	7.3
1969	15.1	6.7	24.1	13.1	12.1	6.5
1970	16.0	6.9	25.4	13.1	12.6	6.4
1971	16.0	5.6	25.6	11.5	12.5	5.6
1972	15.5	5.0	24.5	9.7	11.9	4.7
1973	14.5	3.9	23.0	8.3	11.1	4.0
1974	14.5	4.1	23.4	8.0	11.2	3.8
1975	16.1	4.1	25.9	7.8	12.3	3.6

* The *poverty deficit* is the amount of money necessary to raise the incomes of all poor persons up to the poverty threshold.

Sources: U.S. Bureau of the Census, *Current Population Reports*, Series P-60, No. 106. "Final Revised" figures reflect adjustments for household basis, under-reporting, taxes, and in-kind transfers — see text.

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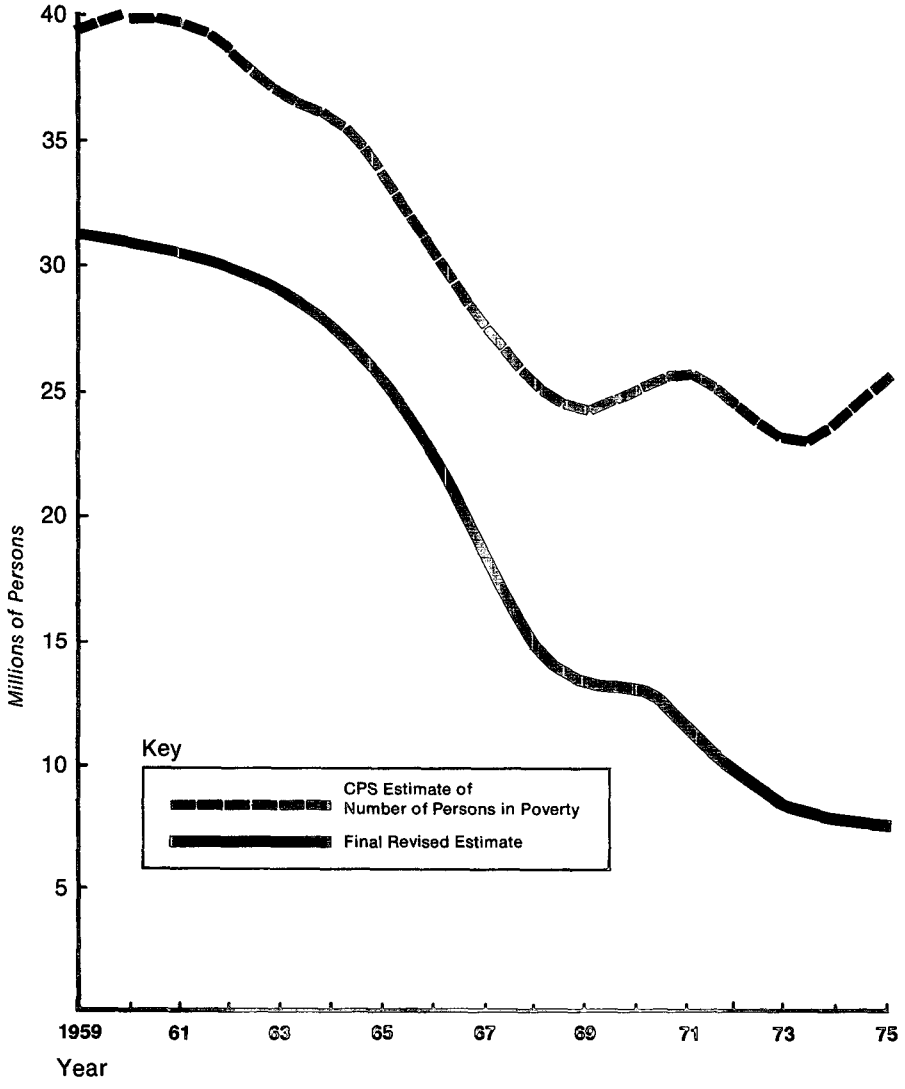
CHART A

PERSONS IN POVERTY: 1959-75
OFFICIAL AND FINAL REVISED ESTIMATES
AFTER ALL IN-KIND TRANSFERS
HAVE BEEN TAKEN INTO ACCOUNT



SOURCE: Table 4.

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record.[6] It is also worth noting that for 1959 our final revised estimate is 79 percent of the Census figure but for 1975 it is only 30 percent as large as the official estimate. It is apparent that the Census cash income measure of poverty has departed further from reality as the in-kind programs have grown to a position of dominance in the income-tested transfer budget.

An acknowledgement of the major impact which the in-kind transfers have had in reducing poverty need not make us insensitive to their faults. The in-kind programs are beset with inconsistent eligibility criteria. They have failed to coordinate program benefits, which has resulted in work disincentives and inequities. But this should not obscure the salient fact that the transfers have been on a sufficiently massive scale to effect a major reduction in the poverty population. It would have been surprising if they had not done so. What is disquieting is the failure to recognize this accomplishment. Social scientists have generally accepted and have given wide currency to the official poverty estimates. It is time for the statistical veil to be lifted so that the poverty problem can be seen in its true dimensions.[7]

6. The phantom poor and other statistical anomalies discussed in footnote 5 above add up to at least 1.5 million persons in 1975. If this is subtracted from the final estimate, the number of poor in 1975 drops to 6.3 million persons, and the poverty rate to 3 percent.

7. The first quasi-official recognition of the inadequacy of the Census poverty statistics is the study done by the Congressional Budget Office (CBO), *Poverty Status of Families Under Alternative Definitions of Income* (revised edition, June 1977). The CBO poverty estimates were made for fiscal year 1976 which overlaps one-half year with my 1975 calendar year estimates. While the CBO poverty figures are much lower than the official ones, they are higher than my final revised estimates for 1975. However, a large part of the difference is conceptual rather than substantive. CBO adds Puerto Rico and the long-term institutional population to the Census population base and, not surprisingly, this adds a few million to the poverty counts both before and after cashing out in-kind transfers. In its published estimates, CBO provides poverty counts only in terms of the number of "family units" (including single person units) rather than in persons. Since small families are over-represented in the poverty population as compared with the total population, this inflates the poverty rate above what it would be if the estimates were reduced to number of persons. If the CBO figures are adjusted for these conceptual differences, their estimate of the percentage of poor after taxes and all transfers goes from 8.3 percent (*loc. cit.*, p. 9) to 5.1 percent. This compares with my 3.6 percent shown in Table 4. For a detailed reconciliation of differences, based on special CBO computer runs, see Paglin, *op.cit.*, Appendix IV.

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The Settlements and Peace: Playing the Links With Begin, Carter and Sadat

DOUGLAS J. FEITH

Few things unsettle the Carter Administration quite as much as Israeli settlements in Judea-Samaria (the West Bank). Though these Jewish enclaves are small in number and population, Washington regards them as a large provocation. Whom they provoke more, Washington or the Arabs, is an important riddle. In any case, no U.S. official can view the settlements indifferently without contradicting the premises on which this Administration has built its Middle East peace policy. The settlements and this policy cannot both be justified.

Extravagant publicity has given the settlements an air of inherent importance. Though one could view them merely as symbols of just how basic remain the differences between Arabs and Jews, Administration officials foster the notion that the settlements to some significant degree account for Arab enmity toward Israel, that if the settlements did not exist the Arab world would more readily accept the Jewish state. In the formulation of President Carter, the settlements are not only "contrary to international law," but "an impediment to peace."[1]

Administration policymakers posit that Arab-Israeli peace requires a collective resolution of the grievances dividing Israel and the Arabs. Accordingly, during its first year, the Administration concentrated on preparing a forum, Geneva, for the negotiation of a "comprehensive settlement" for the Middle East. To Washington's continuing chagrin, Anwar Sadat aborted this scheme with his November 1977 Jerusalem visit. While there is little mention of Geneva nowadays, Administration officials retain the conviction that the only kind of Middle East peace worth pursuing is one that includes all of Israel's neighbors.[2] This conviction arises from the belief that not

1. Office of the White House Press Secretary, *White House Statement Following Final Meeting Between President Carter and Egyptian President Sadat: February 8, 1978.*

2. Washington's strong support in the last weeks of 1978 for "linkage" between Egyptian-Israeli peace progress and Israeli concessions regarding

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only Jordan, but Syria as well, is willing to abandon the goal of recapturing all of Palestine for the Arabs. Indeed, President Carter has been emphatic in so professing: "There is no doubt in my mind that President Assad wants peace with Israel, and there is no doubt in my mind that King Hussein wants peace with Israel."[3] The question naturally arises: what impedes these would-be Arab peacemakers? The Administration's answer, implied in its frequent invocations of Resolution 242's withdrawal provision, seems to be Israel's retention of the territories captured in 1967. Of these territories, Israel appears most stubbornly attached to Judea-Samaria, with its settlements there serving both to reflect and to bolster this stubbornness.

The Arabs' loss of Judea-Samaria in 1967 was, of course, a consequence rather than a cause of the war started against Israel nineteen years before. However, whereas pre-1967 Arab calls to liberate Palestine by driving Jews into the sea generated more offense than sympathy, the Arabs' post-1967 lament over the loss of their lands touched the hearts of a great many people whose receptiveness to the Arab plaint developed coincidentally with their fears of oil blackmail. In an altogether profitable exercise in rewriting history, Arab spokesmen have focused attention on the "occupied territories" as if these lands and Israeli activities in them composed the crux of the Middle East conflict. Like others in the oil-dependent world, Americans in recent years have developed sympathy for the Arabs' aim of recovering the lands lost in 1967 and creating in Judea-

Judea-Samaria is of a piece with the Administration's policy in the days immediately following the Sadat visit to Jerusalem. Three weeks after this visit, *The New York Times* reported an Administration diplomatic triumph with the headline: "Vance Gets Pledge from Sadat to Bar a Separate Peace," December 11, 1977, p. 3.

3. Press Conference of President Jimmy Carter, Nov. 30, 1977. In this same press conference, the President said that "a separate peace agreement between Egypt and Israel to the exclusion of the other parties is not desirable. This is predicated upon the very viable hope that a comprehensive settlement can be reached among all the parties involved." On Jan. 4, 1978, he stated, "In my own private discussions with both Arab and Israeli leaders [which included talks with Assad and Hussein], I have been deeply impressed by the *unanimous* desire for peace." President Carter's Statement at Aswan, Department of State News Release (emphasis added).

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Samaria a Palestinian Arab "homeland." As noted by Alfred Atherton, U.S. Ambassador to the Middle East peace talks:

> We have come to recognize *increasingly* the importance of a just resolution of the problem of the Palestinian Arabs for a peace settlement. . . .
>
> The oil which some of [the major Arab countries] produce has long been vital to our allies and it is *increasingly* so to us. . . .
>
> No party to the conflict *today* disputes that the Palestinians have a sense of identity which must be taken into account. President Carter has recognized this by speaking of the need for a homeland for the Palestinians.[4]

As the Carter Administration has grown "increasingly" appreciative of the alleged paramountcy of Arab concern for the West Bank, it has grown increasingly cavalier about the long-range intentions of Israel's neighbors. U.S. policymakers appear simply to assume that when Arab spokesmen muted their cries to liquidate Israel they also lost their ambition to do so. Though Egypt has committed itself to respect the Jews' sovereign claims in Palestine, the hostility that Sadat's diplomacy has met with in Saudi Arabia, Jordan, and Syria warns against casual generalizations about evolving Arab moderation. To Israelis, who stand to lose much from Washington's errors in judgment, it is wanton and misleading to state, as did Ambassador Atherton, that "attitudes in the Arab world toward Israel have shifted gradually since 1967 . . . ," implying that Israel's right to exist has become an accepted notion in the Arab world.[5]

Begin's 'Irrational' Policy

If one accepts the Carter Administration's thesis – (1) that Israel's neighbors are all resigned permanently to a Jewish state in Palestine and willing to join in a comprehensive Arab-Israeli peace agreement, (2) that Resolution 242 entitles the Arabs to regain virtually all of Judea-Samaria, and (3) that an

4. "The Middle East Peace Process: A Status Report," Remarks by Alfred L. Atherton, Jr., Ambassador at Large for Middle East Peace Negotiations, Los Angeles, California, June 15, 1978 (emphasis added). This thought was echoed in the State Department's *Annual Review of the U.S. Middle East Policy*, July 1978, p. 5.

5. Remarks in Los Angeles, cited above.

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Israeli policy precluding a West Bank withdrawal precludes also the possibility of peace – then the Begin Government's support of Jewish West Bank settlements of negligible military value must strike one as either irrational or criminal or both. As noted above, the President himself has publicly denounced Jerusalem's settlement policy as criminal ("contrary to international law"). Even more fervidly, but less openly, Administration officials fret about Menahem Begin's irrationality (nationalist extremism/religious fanaticism) concerning the West Bank.[6]

The conclusion that the Begin Government impedes peace by indulging irrational sentiments has justified Washington in stepping out of its mediator pose to become an active party to the Arab-Israeli diplomatic conflict, a party interested in the overturning of Israeli policy. Seizing on the theory that Israel's leaders do not understand the best interests of their own country,[7] Washington has in practice abandoned the view that no lasting Middle East peace can result from a settlement imposed by an outside power. Since Begin's May 1977 election victory, the Carter Administration has made a point of publicizing its disagreements with Jerusalem.[8] This strategy of conflict

6. Such fretting is reflected in news commentaries like that of syndicated columnist, Carl T. Rowan, entitled "Begin Must Go If Peace Is To Come," Philadelphia *Evening Bulletin*, March 29, 1978, p. A9. In this rather impassioned attack on the Israeli Prime Minister, Rowan wrote, "Sadat knows, Carter knows, the press knows that Begin is saying: 'I'm labelling these areas negotiable, but my religious commitment is such that I'll never give them up.'"

7. George Ball, Democratic Party elder statesman, set forth this theory in a much discussed article with the patronizing title, "How to Save Israel in Spite of Herself," *Foreign Affairs*, April 1977. While the article appeared before Begin became Prime Minister, its thesis carries greater weight if one believes that Begin, for mystical reasons, is even less inclined to appease Arab demands than were his predecessors. Mr. Ball does not admit the possibility that Jerusalem's policies are well-grounded and that U.S. policymakers are the ones who have failed to see the real interests of their country.

8. For example, in order to refute "the allegation that the United States did not object seriously to the latest Israeli settlements," the State Department on Feb. 7, 1978, made known to the press that three times within the preceding month President Carter sent to Jerusalem "strong" messages expressing criticism of the settlements and foreboding about "the effect they would have on the peace process." State Department text quoted in *The New York Times*, February 8, 1978, p. A6.

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has required Washington to champion the cause of Palestinian Arab "rights" as a means of challenging Begin's "irrational" West Bank policy.[9] As a result, the Administration has reinforced the conviction among hard-line Arabs — who are indispensible to any "comprehensive settlement" — that the more they agitate against the Jewish presence in Judea-Samaria and for Palestinian Arab nationalism, the more U.S. policy will accommodate itself to them and the more U.S.-Israeli relations will deteriorate. Furthermore, from an Israeli perspective, the Administration's contentious diplomacy impeaches America's impartiality and diminishes its trustworthiness. These developments will make it more difficult for the United States to influence Israeli actions in the future.

Historical Claims to Judea-Samaria

Thus, dangerous consequences have attended the notion that Israel's West Bank policy is governed by irrational (religious or nationalistic) impulses. Having triggered these consequences, the Administration has a large stake in the validity of the notion. Predictably, therefore, supporters of the Administration's Middle East policy exhibit little patience for arguments about historical Jewish rights to Judea-Samaria. If the Jews have a claim to Judea-Samaria at least as rightful as that of the Arabs and if the purpose of the Israeli settlements there is to stake this claim, then it may be that Israel's stand on the West Bank is not irrational after all.

It is commonly suggested that U.S. Middle East policy, affecting as it does America's largest economic and geopolitical concerns, should be rooted in the bedrock of "hard" practical political considerations, rather than the morass of historical claims to territory. This attitude serves to justify impatience with Jewish claims to Judea-Samaria. To state such a claim in Washington is to invite the following retort: "Middle Eastern history is a mess. Washington would be foolish to presume to judge the hot historical debate over Palestine. And it would be even more foolish to let any such judgment govern

9. See "Joint Soviet-U.S. Statement on the Middle East," Department of State Public Information Series, October 7, 1977; "Statement by Hon. Cyrus R. Vance, Secretary of State, at the Opening Session of the Political Commitee, Jerusalem, January 17, 1978," Department of State Press Release No. 28.

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U.S. policy, given the concrete nature of U.S. interests in the area. What is important is that, as a practical political matter, no leader of Jordan or of the Palestinian Arabs could possibly make peace with Israel unless the Israelis gave up the West Bank." Relying on such a rationale, U.S. policymakers pretend to stand above Arab-Israeli historical squabbles.

What does it mean that Arab leaders "cannot" be expected to accept Israel's continuing "occupation" of certain territory? Such a statement is merely a condensed version of the following observations: (1) the people represented by these leaders (or the leaders themselves) have certain perceptions of history; (2) they have developed from these perceptions a conviction about their right to control the territory; and (3) this conviction, being strongly held, constrains the diplomatic choices of the leaders. To attach importance to such constraints on Arab leaders is to admit the importance of popular Arab perceptions of history and right. Likewise, to base a foreign policy on the assumption that Arab leaders can settle for nothing less than a virtually complete Israeli withdrawal from the West Bank is necessarily to credit the Arabs' perception of their historical rights to Judea-Samaria and to disparage the Jewish claim of right. History is either important or it is not. It cannot be important when one weighs the Arabs' case and merely academic when one weighs the Jews'.

A short while ago, in these same pages,[10] Senator Moynihan wrote incisively on the relationship of "Words and Foreign Policy." In introducing his essay, he quoted Benjamin Disraeli: "Few ideas are correct ones, and none can ascertain which they are. But it is with words we govern men." The domination of thought through the definition of words has been exemplified nowhere better than in the Arab-Israeli diplomatic conflict, especially in connection with the terms "Palestine" and "Palestinian."

The Balfour Declaration

Until very recent times, the name Palestine was understood to apply to a region comprising not only what was pre-1967 Israel, the Gaza Strip and the West Bank, but the Kingdom

10. Daniel Patrick Moynihan, "Words and Foreign Policy," *Policy Review*, Fall 1978.

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of Jordan as well. This definition prevailed universally through the early part of the twentieth century. This is what was meant by "Palestine" in the 1917 Balfour Declaration, wherein the British government vowed support for "the establishment in Palestine of a national home for the Jewish people." And this was the region that the League of Nations in the early twenties placed under mandate to the British for the purpose of effecting the recreation of a Jewish homeland in Palestine (the League Mandate incorporated the Balfour Declaration by express reference).

The validity of the Jewish claim to Judea-Samaria does not depend only on theories of divine right that leave one either to agree or be damned. The perception of Jewish national rights that impels the Begin Government's settlement policy is akin to that of the original non-Jewish supporters of the Balfour Declaration and emerges from the history of Palestine.

Following World War I, to mollify Emir Abdullah, who held a British IOU from that war and harbored ambitions regarding Damascus that endangered British-French harmony in the Middle East, the British government arranged to restrict the application of the Balfour Declaration to the twenty percent of mandated Palestine that lay west of the Jordan River. London installed Abdullah as ruler over the other eighty percent, which, being situated "across the river," was dubbed Transjordan. Thus, by 1923, the first partition of Palestine had occurred, resulting in the creation of an Arab Palestinian state in four-fifths of the territory that the Jews might otherwise, with international legal sanction, have included in their own sovereign homeland. This Arab Palestinian state is now, of course, known simply as Jordan and is ruled by Abdullah's grandson, King Hussein. It is overlooked that Jordan is a Palestinian state, albeit with a Bedouin king. Arab partisans in the Middle East propaganda war capitalize on this common geographical blind spot by alluding to the "stateless" Arabs of Palestine.

The fight over the remaining twenty percent of Palestine continued. In 1947, the United Nations voted to relieve Britain of its mandate. Recognizing that Palestine was not only the Jews' homeland but the home of a sizable number of Arabs, the United Nations attempted to satisfy all parties by partitioning the land yet again. The 1947 U.N. partition plan contemplated creating in the western twenty percent

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of Palestine both a second Arab Palestinian state (the first being Transjordan) and one Jewish state. The Palestinian Jewish leadership announced its willingness to build a state in only part of the Jewish homeland. The Arabs, however, united in rejecting the partition proposal, even though it left the Jews with less than eleven percent of Palestine. Denying the validity of Jewish claims to sovereignty over any of Palestine, Israel's neighbors, upon the withdrawal of Britain's mandatory troops, invaded the newly-declared Jewish Palestinian state.

The resulting war ended in 1949 with an armistice along lines that marked the bounds of Israel until 1967. In the 1948-49 war, the Gaza Strip and the West Bank came under the control of their respective conquerors, Egypt and Jordan (it was with the capture of Judea-Samaria that Transjordan found itself on both sides of the Jordan River and dropped the prefix "Trans-").

The armistice lines, which achieve a dignity under the Arab interpretation of Resolution 242's withdrawal provision that they never enjoyed as Israel's actual frontiers, represent nothing more than the balance of Arab and Israeli forces in 1949. They have never constituted a border, that is, a mutually accepted, legally significant line of division between nations.[11] Moreover, most emphatically, they have never represented a division between the part of Palestine to which the Jews have a valid claim (with a concomitant right to settle) and a part to which the Jews have no such claim.[12] If such a delineation is ever to

11. The fact that the 1949 armistice lines never constituted a border compelled the draftsmen of the 1978 Camp David accords, when they wanted to order an Israeli withdrawal in the Sinai to an actual border, to refer to "the internationally recognized border between Egypt and mandated Palestine. . . ."

12. Just as there has been no recognition by the United States of Israeli sovereignty over Judea-Samaria, there was never any such recognition of Jordan's annexation of this area, following its conquest in 1948-49. In fact, the only nations in the world, including the Arab world, that recognized Jordan's annexation of the West Bank were Pakistan and the United Kingdom. In the words of Eugene Rostow, Sterling Professor of Law at Yale University and former Under Secretary of State for Political Affairs, "the status of the West Bank of the Jordan and of the Gaza Strip is very special. . . . They have to be considered as unallocated parts of the British Mandate. . . . They remain subject to the Mandate considered as a trust, and that status will continue until the terms of the Mandate are ful-

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be made, it must await a partition of Palestine agreed to by both the Arabs and the Jews.

Israel's Legitimacy as a State

Now comes the Carter Administration and insists that the Begin Government renounce Jewish rights in a disputed piece of Palestine, even while the Arab world, save Egypt, maintains its refusal to acknowledge that the Jews have a legitimate claim to any of Palestine. Were the Begin Government to oblige – to declare that the Jews' historical ties to this area dating back to biblical times engender no legal claim to the land – how would it answer the charge, inevitable in the next round of Arab-Israeli negotiations, that the Zionists had no right to resettle Tiberias, Jaffa or Beer Sheba? Administration officials seem oblivious to the fact that when the issue of Israel's West Bank settlement policy is framed in terms of legal *right*, it touches the question of Israel's legitimacy as a state. The international community, acting through both the League of Nations and the United Nations, has recognized Jewish rights in Palestine that derive from the Jews' historical connection with the Holy Land. If this connection now is dismissed as so much academic or religious stuff, of no modern-day practical or legal significance, then there can be no justification for a Jewish state anywhere in Palestine, not in Judea-Samaria, not in Tel Aviv. This profound implication of impugning Israel's claim to Judea-Samaria may escape ingenuous members of the Carter Administration, but it undoubtedly registers with those Arab leaders who regard all of Israel as "occupied territory."

That U.S. opposition to Israel's West Bank settlements is rationalized on the basis of erroneous legal and historical assumptions does not, however, establish the actual unwisdom of the policy. Whether Washington's actions regarding Judea-Samaria are appropriate depends less on their pretext than on their usefulness in advancing U.S. interests in the Middle East. High among these interests, as every American president since Truman has recognized, is the promotion of an Arab-

filled. Therefore, in the West Bank area, Israel continues to have, under the Mandate, the full right of settlement which it had after 1922." Interview on Israel Radio, "English News Service," November 4, 1978, Israel Information Center, Information Briefing.

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Israeli peace. Such a peace would safeguard America's democratic ally and strategic asset, Israel, avert the dread strains in U.S.-Arab world relations that attend wars against that country, and minimize (even if it would not eliminate) Soviet influence in Arab capitals. Therefore, in evaluating the Carter Administration's West Bank diplomacy, it is crucial to question whether it in fact promotes Arab-Israeli peace.

Setting aside issues of historical right, Washington's policy of condemning Israel's West Bank settlements aims at inducing Arab powers — such as Syria, Jordan, Saudi Arabia, and the PLO — to engage in U.S.-sponsored peace diplomacy. Administration officials seem to reason that Arab leaders are likelier to join the peace process if Washington shows willingness to pressure Israel for a West Bank withdrawal. As does all of the Administration's Middle East policy, this particular strategy operates on the (unlikely) assumption that Arab territorial ambitions in Palestine are restricted to the West Bank and Gaza.

In 1977, the Administration's efforts to win the confidence of Arab hard-liners included: (1) President Carter's call in March for a Palestinian Arab "homeland"; (2) the Administration's statement on June 27 insisting that Israeli withdrawals occur on all three fronts; (3) the President's announcement in August that PLO acceptance of Resolution 242 would result in direct U.S.-PLO contacts, in violation of the 1975 U.S.-Israeli agreement that such contacts must await both the PLO's acceptance of 242 *and* its express acknowledgement of Israel's right to exist; and (4) the October U.S.-Soviet Joint Declaration, in which Washington for the first time adopted the diplomatic code phrase "the legitimate rights of the Palestinian people." These moves strained U.S.-Israeli relations but proved unsuccessful in luring any of the Arab hard-liners to a more moderate position. No sooner were the moves made than the Syrians, the Saudis, and the PLO reaffirmed their commitment to eliminate the "Zionist entity." Nor, predictably, did these efforts win the United States any favors from Arab oil exporters. After all, it is unrealistic to expect the oil sheiks to alter either their prices or petrodollar investment policies out of gratitude for U.S. antagonism toward Israel. Yet, the Administration continually rewarded Arab inflexibility with additional attacks on Israeli policy. Washington's carrot and stick technique has failed to moderate the Arab hard-liners because when they refuse the carrot, the Administration hits

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itself with the stick.

In attempting to court the more reluctant Geneva invitees, Washington found itself constantly tangling with Jerusalem over PLO representation at the conference and Israeli settlement activity in Judea-Samaria. Before negotiations among the parties could begin, agreements were required on these most volatile of issues. By placing Judea-Samaria on the top of the diplomatic agenda, U.S. officials gave the PLO and Syria, Egypt's Arab rivals, a veto over progress. This ensured that no "momentum" toward peace would develop. As a consequence, having already received the Begin Government's promise to return Sinai to Egyptian control, Sadat decided to derail Washington's Geneva train by bending his own track to Jerusalem.

Sadat's visit to the Israeli capital created a new diplomatic agenda, on the top of which stood the more tractable issue of the Sinai, a region in which Israel has security interests but no sovereign claims. This visit freed Egyptian diplomacy of the hard-liners' veto. And it signalled to them a message: if they maintain their insistence on the invalidity of all Jewish claims to Palestine, they will not be indulged indefinitely.

Arabs' Refusal to Compromise

U.S. officials have refused to send Arab hard-liners this same message. These officials retain their commitment to "Arab unity," as if this concept ever existed outside of the fight against Israel, and accordingly they persist in pursuit of the comprehensive settlement. Their plan calls for assertions that the Jews have no right to live in Judea-Samaria. But this tactic, instead of stimulating the Arabs' interest in the peace talks, merely encourages their unwillingness to compromise. U.S. officials punish Israeli settlement activity by denouncing it as a threat to peace but, unlike Sadat,[13] they refuse to denounce the belligerence of the Syrians or the Saudis. According to the Carter Administration, the Syrians and the Saudis, despite their repudiation of the Egyptian-Israeli accords, remain "moderates"

13. See "Ties Cool Between Egypt, Saudis," *Washington Star*, Dec. 5, 1978, p. 43; "Sadat Seems Bitter at Arab Moderates," *The New York Times*, Nov. 21, 1978, p. A11; "Split Deepens Between Egypt, Other Arab States," *Washington Post*, Nov. 7, 1978, p. A12; "'I Have Had Enough,' Sadat Says of Syria," *Washington Post*, Oct. 11, 1978, p. A20.

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in the Arab-Israeli conflict. By calling Israeli policy toward Judea-Samaria criminal and Syrian and Saudi policy toward Israel moderate, the Administration provides precious little impetus for Damascus or Riyadh to make concessions for peace.

Egypt runs risks in joining Washington's crusade against Israel's West Bank policy. It is true that Egypt has a political stake in appearing concerned about the Palestinian Arabs and in representing that Sadat's policies have benefited them. Nonetheless, if Egypt is to retain the diplomatic independence it achieved with the Jerusalem summit, it cannot condition all progress in Egyptian-Israeli relations on the loosening of Israeli control over Judea-Samaria. The prerequisite for any such loosening is cooperation from Jordan and from West Bank Arab leaders; hence, a full and rigid linkage between developments in Sinai and those in Judea-Samaria would replace the old Syrian-PLO veto over Egyptian diplomacy with vetoes held by both the West Bank Arab notables, who are subject to violent PLO intimidation, and by Hussein. Ironically, such a linkage is perceived as essential by U.S. officials who fear an Egyptian-Israeli peace will so unburden Israel that it will feel no compulsion to make the additional concessions these officials believe are necessary for a comprehensive settlement.

The peculiar relationship of U.S. and Egyptian policies toward Israel's West Bank settlements was illustrated in the course of the post-Camp David Egyptian-Israeli negotiations in Washington. On October 13, the United States placed on the table a draft treaty. A week later, Israel's negotiators left the talks to report back to the Israeli cabinet in Jerusalem. The Cabinet, in Begin's absence, conditioned its approval of the U.S. draft on the adoption of certain amendments. Cairo announced that it might call its negotiators home to consult about these proposed amendments.

In the meantime, while the Washington negotiations were in session, U.S. Assistant Secretary of State Harold Saunders was traveling around the Middle East talking with Arab and Israeli leaders. Following discordant discussions with Begin, Saunders visited Judea-Samaria, where he advised Arab leaders that if they remain firm in their resolve to oust the Israelis, they can look forward to an Israeli withdrawal from the West Bank as complete as that of the Israelis from Sinai. Saunders' comments included the suggestion that in time Israel can be

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made to yield control over East Jerusalem as well.

In response to Saunders' rude pronouncements and in order to reassure edgy government party members that Israel strongly maintains its claim to Judea-Samaria, the Israeli government declared its intention to "thicken" existing Jewish settlements in the area. This declaration was made after Cairo had suggested that its negotiators may have to leave Washington for routine consultations on the Israeli amendments to the U.S. draft treaty.

The State Department's spokesman hastened to condemn Israel's decision on the settlements and suggested that Cairo may feel compelled to withdraw its negotiators from Washington in protest. However, when asked by television newsmen whether Egypt's negotiators were to be so withdrawn, both Sadat and his minister of state for foreign affairs answered emphatically in the negative. They explained that their negotiators may be called away for routine consultations, as was announced before the "thickening" decision, but they disclaimed a tie-in between the negotiators' possible withdrawal and Israel's settlement policy.

In its indignation over the "thickening" of the settlements, the State Department far surpassed the Egyptians, who apparently were more concerned with consummating the treaty talks than with the illusion of Arab unity or the mollification of the West Bank hard-liners. Officials at State undoubtedly felt embarrassed by Cairo's indifference. It was amusing to note that journalists reporting from the State Department asserted, despite Sadat's unequivocal disclaimers, that Cairo was considering recalling its negotiators "at least in part" as a protest against Israeli settlement activity.

The 'Linkage' Controversy

There are ample grounds for concluding that the "linkage" controversy in the winter of 1978-79 was severely aggravated not by Cairo, but by the Carter Administration, which fears that such a treaty, without conditions relating to Judea-Samaria, might impair prospects for a comprehensive settlement. At a time when Sadat was informing newsmen that a peace treaty was inevitable and was reported as facing snags in the negotiations "with equanimity," President Carter was declaring combatively that "one of the premises of the Camp David negotiations was a comprehensive peace settlement,

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and that includes not just an isolated peace treaty between Israel and Egypt but includes a solution for the West Bank, the Gaza Strip and the Golan Heights."[14] Though the concept of firm linkage is anathema to Egyptians jealous of their diplomatic independence, Sadat could not denigrate it altogether without unduly insulting his fellow Arabs and the Carter Administration. So he answered President Carter's linkage comments with the wry proposal that the peace treaty be linked to Israel's relinquishment of Gaza. He refused, however, to tie the treaty to Israeli actions on the West Bank and, thereby, demonstrated his annoyance with the impediments placed in the path of Egyptian-Israeli peace by Washington. *The New York Times* quoted U.S. officials as saying that Sadat's Gaza proposal left them "confused."[15]

The Gaza proposal quickly faded away and the Administration has apparently arranged for more dependable Egyptian lip service to the linkage concept, but it remains important for students of U.S. foreign policy to realize that the linkage dispute was primarily a fight between Israel and the United States. In an article concerning this dispute, *The New York Times* Cairo correspondent reported a significant observation by an Egyptian "source": "Frankly, many Egyptians don't give a damn for the Palestinians."[16]

Egypt's willingness to sign a bilateral peace treaty with Israel amounts to a repudiation (at least for the time being) of both Arab unity and the active pursuit of a comprehensive settlement. It also represents Egypt's estrangement, if not divorce, from the cause of West Bank Arab nationalism, which is dominated by the PLO, an organization responsive to Damascus and Moscow, not Cairo. Sadat has made clear that whatever distress, if any, he feels over Israel's settlement activities in Judea-Samaria, he will not permit it to forestall permanently the improvement of Egyptian-Israeli relations. Sadat evidently is convinced that the best inducement for Jordan and Syria to join the peace process is the threat that if they do not join they will stand without peace, without Egyptian military support, and without any of the land they lost in 1967.

14. *Washington Post*, Nov. 13, 1978, p. A20.
15. *The New York Times*, Nov. 15, 1978, p. 9.
16. *The New York Times*, Nov. 25, 1978, p. 4.

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Sadat's diplomatic strategy, nevertheless, allows for participation in a "linkage" fight to win Israeli West Bank concessions in advance of an Egyptian-Israeli peace, so long as the fight enhances Egypt's standing in the Arab world, pits Washington against Israel, and erodes popular support for Israel in the United States. Egypt has fought such a fight (especially vigorously in the months following Camp David) and can be expected to continue to do so until either Washington withdraws from active conflict with Israel over Judea-Samaria, which would largely deprive Egypt of its incentive to fuel the linkage controversy, or the fight over linkage appears to Sadat likely to eliminate Egypt's chances of peaceably recovering the Sinai. Miscalculation threatens grave consequences.

The Carter Administration now faces a choice. On the one hand, it can (1) abandon the view that Judea-Samaria is the crux of the Arab-Israeli conflict, (2) acknowledge that the crux is really the Arab refusal to accept a Jewish state in Palestine, (3) renounce quarreling over Israel's rights in Judea-Samaria, which encourages Arab inflexibility and damages valuable U.S.-Israeli ties, (4) confine itself to the role of mediator, rather than party, to the Arab-Israeli conflict, and thus (5) inform Damascus, Amman, the Palestinian Arabs, and Riyadh that if they want an alteration in Jerusalem's policies they had best start negotiating with Jerusalem, as Sadat has done, and quit relying on Washington to "deliver" the Israelis. On the other hand, the Administration can (1) commit even more prestige to the goal of a comprehensive settlement and thus find itself at the mercy of the Arab hard-liners, (2) woo these hard-liners by battling for the Palestinian Arab cause that Sadat has shown himself willing to drop, and (3) undermine moderation further by demonstrating that the Arabs can win as many benefits from the United States by refusing to make concessions as they can by resigning the war against Israel and signing a peace treaty.

The latter alternative is the Carter Administration's likely choice.

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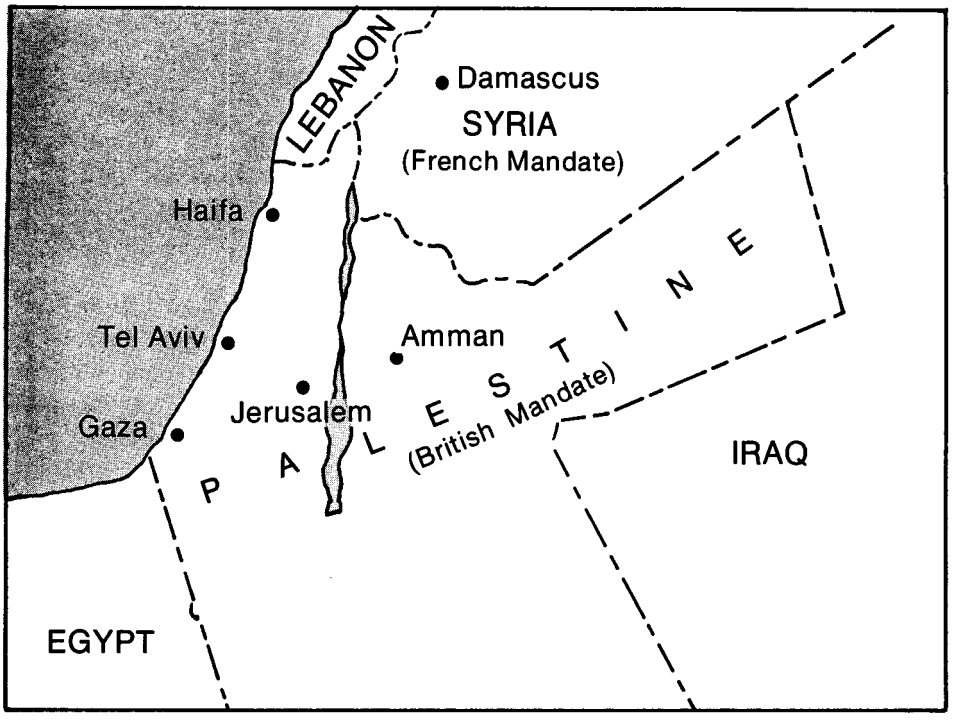
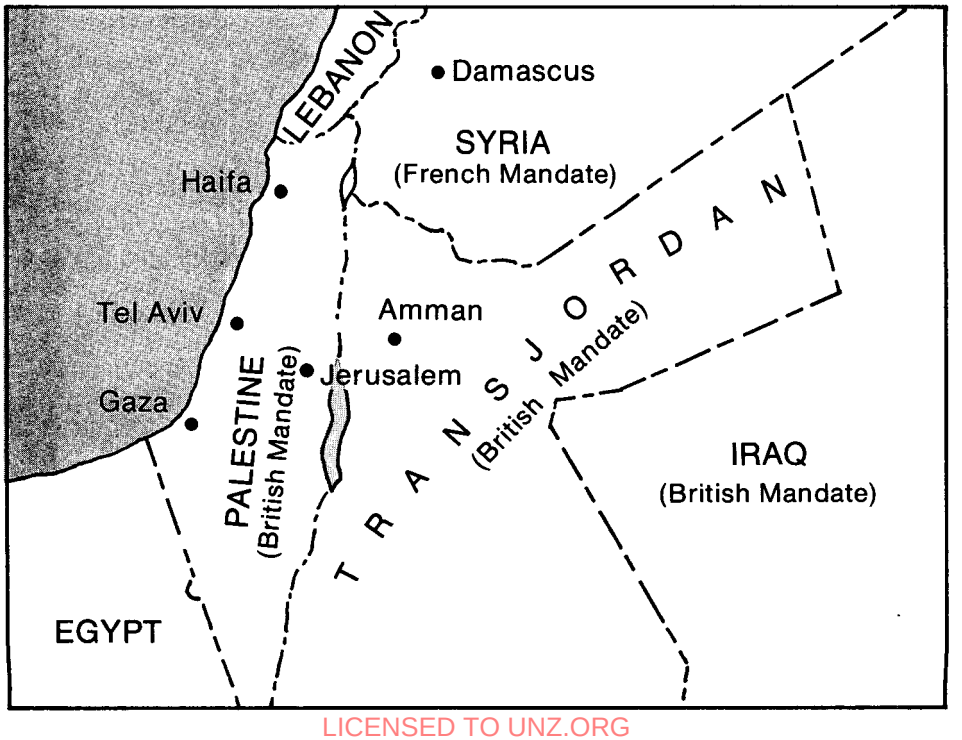
The British Mandate for Palestine, 1920



The New British Mandate, 1922



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Federal Spending Limitations: An Idea Whose Time Has Come?

JEFFREY T. BERGNER

In the last days of the 95th Congress, the United States Senate found itself unexpectedly debating one of the most fundamental and novel proposals to limit government spending that has arisen in recent years. For several hours the Senate debated an amendment to the Humphrey-Hawkins bill which proposed to restrict federal spending to a specific — and gradually declining — percentage of the Gross National Product.[1]

That this was unexpected is hardly deniable. As recently as August of this year, a group of academics travelled to Washington to announce the formation of a committee to push for a constitutional amendment to limit federal outlays to a given percentage of the Gross National Product. So unlikely did the prospect of congressional support for this initiative appear to them that this otherwise responsible group talked openly of joining the ranks of single issue factions and calling for a new Constitutional Convention. Such a prospect demonstrated not only the depth of this group's concern for federal spending limits, but also its belief that spending limitations could not be achieved through the regular legislative processes. And so it would have seemed until the last two weeks of the Congress, when the Congress suddenly turned to consider just this kind of spending limitation in two separate contexts. First, the Congress overwhelmingly adopted language in the tax bill which would relate federal spending levels to the Gross National Product. This language was subsequently withdrawn in the tax bill conference committee version, which in turn passed both the House and Senate. It seems likely that this action on the part of the conferees was predicted in advance of the preliminary vote in both houses. Hence, it was all the more significant

1. The amendment, offered by Senator Proxmire, proposed to limit federal budget outlays to 21 percent or less of the GNP by FY 1981 and to 20 percent or less of the GNP by FY 1983. These percentages are actually slightly *higher* than the projections in the Second Concurrent Resolution on the Budget for FY 1979. The projected goals in the budget resolution are 20.9 percent for FY 1981 and 19.9 percent for FY 1983.

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when the Senate turned to debate this very issue in the Humphrey-Hawkins legislation. Just one week earlier, the Humphrey-Hawkins bill appeared hopelessly stalled, blocked by the threat of a filibuster. Under carefully agreed upon arrangements, however, the bill was brought up, and so it came to pass that the United States Senate actually found itself in an extended debate over federal spending limitations tied to the Gross National Product.

That this amendment was defeated (34-56) was not surprising; indeed, proponents of the Constitutional Convention route may find confirmation here for their suspicion that legislative bodies are as little likely to legislate away their own prerogatives as water is to run uphill. What is surprising is that it received extended debate at all and that it finally commanded the support which it did. For however well-considered this kind of limit may be, the novelty and scope of such legislation could not fail to have struck all thoughtful senators. Here was a proposal which, for all of its freshness, had not yet had time to find friends — or opponents — of long standing. Hence, the arguments given that day had an unrehearsed quality about them, as if the entire debate were somehow premature. What was clear was only that the largely symbolic Humphrey-Hawkins bill had somehow become endowed with a new and potent symbolism, far removed from the original purpose of the bill.

Debate in the 96th Congress

It is altogether likely that the debate over federal spending *was* premature and that this entire concept will receive a fuller hearing in the 96th Congress. Indeed, in one form or another it is likely to pervade the entire taxing and budgetary policies of the next Congress. For the idea of restricting federal outlays to a given percentage of the Gross National Product is a powerful and compelling one. Its power resides in the wonderful simplicity with which it states its case. It proposes, simply, to limit federal spending to a specific percentage of the Gross National Product.[2] And that is all. It does not say that any

2. An alternative version has been suggested by the National Tax Limitation Committee. This version would restrict the growth in federal spending to no greater a percentage increase than that of the Gross National Product in the preceding calendar year.

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particular federal program is too expensive or that it is or is not a wise employment of our finite resources at any given point in time. It does not speak to the issue of how or with what instruments we shall raise the revenues to pay for this level of expenditure. It does not, as has happened so often previously, confuse the logically distinct goals of spending limitations and a balanced budget.[3] It does not fail to take into account the growth of our population and our economy and, thus, the necessity of an absolute growth in the level of federal spending. The power of this kind of limitation lies in its overarching simplicity. It simply states that however desirable programs may appear in isolation, the cumulative effect of too many desirable programs will be harmful. There can indeed be coherent parts which make up an incoherent whole; there can indeed be too much of a good thing.

There is every reason to expect to see such considerations underlying a variety of the proposals of the 96th Congress. The liberal agenda of the last decades has lost much of its momentum. To be sure, one element of their leadership wishes to go forward with massive new programs such as national health insurance. But another and more circumspect element has become cautious and uncertain. Among this element the efficiency of federal programs is much in doubt. The limits of the federal government are as often felt as are its capacities to do good. In the place of the heady optimism of the 1960s, we see demands for a new federal role. The notion of the federal government as the supplier of social progress has changed its form. Whereas government was once to be the means to expand our horizons, now it has become for some the means to teach us to correct and to temper our desires. We are increasingly counseled to beware of coming shortages, to draw in, to accept given levels of productivity and material acquisition, and to cease our endless striving for more and more.

There is perhaps much that is unhealthy in this circumspection surrounding the decay of the liberal agenda. But it provides

3. This question has been addressed by Milton Friedman in a recent volume of *Policy Review*, No. 5, Summer 1978. With his usual clarity, Professor Friedman points out that we could have large deficits at very low expenditure levels and a balanced budget at an unacceptably high level of federal expenditures.

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at last a realistic opportunity to limit the accretion of the federal government's role in the economy. We are at a crossroads in our legislative history. The next several years are likely to reveal the direction of our public orientation for years to come. We will determine in the next several years whether the majority will once again regain its faith in the expanded role of the federal government; or whether there will be a reaffirmation of the historical priority of the private sector and its possibilities to create unparalleled productivity and well-being. In this determination, the debate over federal spending limitations will be central.

Opposing Arguments to Spending Limitations

There are three principal arguments against spending limitations which are tied to the Gross National Product. In one form or another these arguments are likely to dominate the upcoming considerations of spending limitations, and proponents of spending limitations would do well to consider them carefully. The first of these arguments holds that spending limitations are not necessary; the second, that spending limitations are not prudent; and the third, that spending limitations are not desirable.

Let us consider first the claim that spending limitations are not necessary. Opponents of spending limitations argue that federal outlays have not grown substantially as a percentage of the Gross National Product in recent years. However much the good efforts of the congressional budget committees must be applauded, this claim is simply not supportable. In the short run, federal budgetary outlays *as a percentage of the Gross National Product* have grown about 3 percent. From a level of approximately 19 percent in the early 1960s, the figure has increased to an average of about 22 percent since the recession of 1975. What this suggests is that the federal share of the Gross National Product has increased by well over 15 percent in the last fifteen years (Table One). It is important to observe that this does not refer to the absolute growth of federal spending (which has more than tripled in the same period) or to the absolute growth of federal spending in real dollars (which has almost doubled in the same period); it refers to a growth in the federal sector *over and above* the growth of our economy in recent years. This is surely a sizable increase by anyone's standards. But what is more distressing is the fact

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Table One
(numbers in billions)

FEDERAL FINANCES AND THE GROSS NATIONAL PRODUCT, 1958-1979

Fiscal year	Gross national product	Budget receipts		Outlays					
				Unified budget		Off-budget Federal entities		Total	
		Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP
1958	442.1	79.6	18.0	82.6	18.7	----------	----------	82.6	18.7
1959	473.3	79.2	16.7	92.1	19.5	----------	----------	92.1	19.5
1960	497.3	92.5	18.6	92.2	18.5	----------	----------	92.2	18.5
1961	508.3	94.4	18.6	97.8	19.2	----------	----------	97.8	19.2
1962	546.9	99.7	18.2	106.8	19.5	----------	----------	106.8	19.5
1963	576.3	106.6	18.5	111.3	19.3	----------	----------	111.3	19.3
1964	616.2	112.7	18.3	118.6	19.2	----------	----------	118.6	19.2
1965	657.1	116.8	17.8	118.4	18.0	----------	----------	118.4	18.0
1966	721.1	130.9	18.1	134.7	18.7	----------	----------	134.7	18.7
1967	774.4	149.6	19.3	158.3	20.4	----------	----------	158.3	20.4
1968	829.9	153.7	18.5	178.8	21.5	----------	----------	178.8	21.5
1969	903.7	187.8	20.8	184.5	20.4	----------	----------	184.5	20.4
1970	959.0	193.7	20.2	196.6	20.5	----------	----------	196.6	20.5
1971	1,019.3	188.4	18.5	211.4	20.7	----------	----------	211.4	20.7
1972	1,110.5	208.6	18.8	232.0	20.9	----------	----------	232.0	20.9
1973	1,237.5	232.2	18.8	247.1	20.0	.1	*	247.1	20.0
1974	1,359.2	264.9	19.5	269.6	19.8	1.4	.1	271.1	19.9
1975	1,454.6	281.0	19.3	326.1	22.4	8.0	.6	334.1	23.0
1976	1,625.4	299.2	18.4	365.6	22.5	7.2	.4	372.9	22.9
1977	1,838.0	356.9	19.4	401.9	21.9	8.7	.5	410.6	22.3
1978 estimate	2,043.2	400.4	19.6	462.2	22.6	11.5	.6	473.7	23.2
1979 estimate	2,274.6	439.6	19.3	500.2	22.0	12.5	.6	512.7	22.5

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that this share has not shown any tendency to decrease in the last year or two. There is little purely economic justification, even on Keynesian premises, for the federal share of the Gross National Product (as well as the budget deficit) to remain at unprecedentedly high levels years after the end of a recession. Indeed, the greatest danger in increasing the federal share of the Gross National Product in a recession lies in the lack of resilience which this figure shows in periods of subsequent growth. In the long run, the federal outlay share of the Gross National Product consolidates itself at a newer and higher level after each recession or emergency.[4] Afterwards it decreases slightly, but never returns to its historically lower share. What we confront in the federal share of the Gross National Product, then, is an erratic but continued growth which has accelerated more rapidly in recent years than in any other peacetime period of our history. We find, too, that high levels of inflation abet this tendency. By pushing into higher tax brackets the inflated incomes of taxpayers, greater revenues can be realized. This then gives the Congress the option of "splitting the difference" with taxpayers, in which there is both greater federal spending and a beneficent return in the bi-annual ritual of a "tax cut." The tax cut is illusory; the spending increase very real. Congress does not have an unambiguous incentive to decrease inflation. We find especially that in inflationary periods there will be greater opposition to meaningful tax cuts than to high federal spending.

Finally, brief attention should be given to a very recent phenomenon — the off-budget agency. Since their inception in 1973, off-budget agencies have reported outlays which have grown steadily. The total outlays of off-budget agencies still comprise a very small percentage of outlays compared to those under the unified budget. In 1977, for example, they amounted to $8.7 billion, and in 1978 they are estimated to have been $11.5 billion (Table One). Nevertheless, the usefulness of the off-budget agency is making itself felt in a variety of ways, and

4. This process was explained most clearly by one of the framers of liberal democracy. In his *Second Treatise on Government*, John Locke writes that there is a tendency for governmental prerogatives to expand under good rulers. Such expansion is not to be lamented. Its danger lies in the precedent which it sets for less than good men with less than good ends.

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it is likely that, if unchecked, they will continue to grow. (For a good analysis of this growing problem, see R. David Ranson, "Toward a Broader Picture of the Budget Deficit," *Policy Review*, Winter 1978.) It is estimated that in FY 1979, off-budget outlays will add .6 percent to the federal expenditure share of the Gross National Product. If we take off-budget outlays into account, as is reasonable to do, the federal share of the Gross National Product has averaged over 23 percent in FYs 1975-78. Throughout the current cycle, then, the federal share of the Gross National Product is almost 20 percent higher than it was in the early 1960s.

The federal share of the Gross National Product has grown and grown markedly. In light of this fact, it would be unwise to place a firm reliance upon budget committee projections which extend years into the future. The problems with such reliance have been graphically illustrated by President Carter's recent decision to moderate the growth of the economy in the next year. Such a policy will reduce the projected growth of the Gross National Product, upon which the budget committees' optimistic projections for a declining federal share are predicated.

Prudence of Spending Limitations

Second, it is said that a spending limitation is not prudent. Opponents of spending limitations argue that we ought not bind ourselves in such a way that we could not act effectively in an unforeseen future. It is said, for example, that a national emergency might require a sudden and massive expenditure of federal funds. And so it might. No spending limitation ought to be enforced which has not the means for its abrogation in a compelling national or fiscal emergency. But it is a perfectly simple matter to design a spending limitation which could be abrogated in times of emergency.[5] Genuine national or fiscal emergencies can be attended to conveniently by a Congress that feels the need for immediate action.

It is mistaken to argue that there is something especially unwise about a spending limitation, as opposed to any other

5. Various proposals have suggested that two-thirds of both Houses could determine such an emergency, that the President could determine such an emergency, or that both two-thirds of both Houses and the President could concurrently determine such an emergency.

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kind of limitation of government. It is well said that we cannot predict the future. But this truism offers scant reason not to propose to ourselves legislative limits which, *ceteris paribus*, are surely beneficial. If an accurate knowledge of the future were the necessary condition for sound legislation, we would have no good laws at all. To impose this demand upon federal spending levels, but to exempt all other legislation from it is surely arbitrary and unjustifiable. As Senator Proxmire has remarked, federal spending is the one thing over which the federal government *does* have exclusive control. The vagaries of international events do not prevent us from confirming treaties whose effects reach far into the future; the vagaries of the weather do not prevent us from adopting agricultural policies; and the vagaries of the market do not prevent us from legislating in the areas of labor and unemployment. Indeed, we might go one step further and say that our entire constitutional government rests upon the premise that holding everything open because of the inadequacy of our knowledge of the future is a grave mistake. Quite to the contrary, it is the very essence of limited constitutional government to specify in advance what the government may and may not do, and what are the prescribed modes in which it must do what it may do. Limited constitutional government *is* the priority of restrictive procedures over the substantive issues which arise from moment to moment and from year to year.

The federal government — and particularly the Congress — is confronted each year with a panoply of needs, desires, and hopes. All of these competing interests have arguments and emotional claims which, *in vacuo*, are very attractive. But many attractive parts do not necessarily add up to an attractive whole. Having shown little inclination or ability to control the parts, the Congress ought reasonably to act to control the whole. To establish a limit upon federal expenditures is not imprudent; it is, on the contrary, the single most prudent and far-sighted action which the Congress could possibly take. We do not call an individual imprudent who, knowing of his weaknesses in given circumstances, acts beforehand to distance himself from such circumstances. Moderation does not consist of having no desires, but of being able to control those desires which we know we have. A spending limitation would compel the Congress to give thought to the broad and long-term effects of what it enacts. It would secure for the whole an attention

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which is otherwise given only to the parts. A spending limitation would counter the easy temptation to mortgage ourselves further and further into the future. To mortgage ourselves into the future is a very convenient policy. Its benefits are felt entirely in the present and its costs borne entirely in the future. But we, who already feel the burden of this continued policy in our $48 billion yearly debt service, ought to be painfully aware that this is not a prudent strategy, but a mere evasion of responsibility.

Desirability of Spending Limitations

Third, it is said that a spending limitation is not desirable. Here we confront the often unspoken heart of resistance to spending limitations, compared to which the arguments of necessity and prudence are but debating points. Those for whom 23 percent or more of the Gross National Product is a perfectly acceptable level of federal spending oppose spending limitations. For these individuals, government spending is an incidental result of the fact that as government comes to do more and more, it will quite naturally absorb a greater and greater share of the Gross National Product.

To be sure, this position is advanced gingerly in these days of rhetorical fiscal conservatism. It will no longer do to advocate more and more federal spending in a manner reminiscent of the 1960s. Instead, we are now presented with a variety of more subtle versions of the demand for greater federal spending. The chief among these is that the increasing role of the federal government in the economy is a "natural" phenomenon. Armed with ambiguous evidence drawn selectively from European welfare economies, advocates argue that there is a natural tendency for government to grow in modern societies. It is said that our economy has shifted from its older production-oriented basis to one which is more service-oriented. The federal percentage of the Gross National Product has grown simply and naturally with the growth of the service sector of the economy. In short, the federal government has grown because it is a natural provider of the services which we have come to demand in the present era of a high-technology economy.

This argument has an easy appeal which, all the more, demands that it be considered carefully. Its appeal derives in part from the fact that it rests upon the indisputable fact that

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the service sector of our economy *has* expanded greatly, as have the service sectors of all modern societies. Services of all kinds have come to play a crucial role in our economy. White collar workers outnumber blue collar workers in our labor force. But the question is: what do we conclude from such indisputable facts?

There is not the slightest reason to conclude that the federal government — or government in general — is a "natural" provider of services. This can be shown in two ways. On the one hand, there is really nothing at all "unnatural" about a government providing goods rather than services to its populace. Arrangements in which governments own or direct the production of goods are not unknown in world history. In this country we have not historically operated under such an arrangement. To call this arrangement "unnatural," however, is wildly mistaken; it is the rare exception in history for a full-fledged capitalist system to emerge, and for government largely to refrain from the provision or direction of the production of goods.

On the other hand and more to the point, it cannot rightly be said that governments have a more natural tendency to provide services than to provide goods. Can it truthfully be said that the public sector has a special facility for providing services which the private sector lacks? To think so one must be virtually devoid of all experience of such parallel services as the post office and private parcel services, state-run and privately owned liquor stores, veterans' hospitals and private hospitals, and so forth. Such examples do not generally speak in favor of the notion that government is a natural provider of services. Indeed, is it not perfectly clear that private firms could equally or better provide many of the services which are now provided by federal agencies? For example, has anyone in truth been more impressed by government predictions about the performance of the economy than by those of private firms or individuals? Has anyone in truth been terribly impressed by the self-serving and often blatantly one-sided government projections concerning world energy supplies? Examples under this head might be multiplied indefinitely.

There is not the slightest reason in theory or practice to assume that the growth of the service sector must find as a natural counterpart the growth of the public sector. That this has occurred in this country in recent years is an unfortunate

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historical accident which ought to be remedied as soon as possible. There is no reason whatever to subscribe to a belief in the superiority of the public sector to the private sector as a provider of services. Government can and ought to provide those desired goods and services which the private sector cannot provide effectively or perhaps at all. But it is not "natural" for the public sector to provide services, and this is a lame and misplaced defense of the merits of extensive federal spending. The advocates of extensive federal spending should be made to defend their view on such straightforward merits as new programs may possess. If we subscribe to the naturalness of government growth in a service economy, perhaps we ought to continue to develop this new scholasticism by rejuvenating the old search for the "just price."

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Further Thoughts On Words and Foreign Policy

DANIEL PATRICK MOYNIHAN

Hannah Arendt somewhere remarks that the tactical advantage of the totalitarian elites of the 1920s and 30s in Europe lay in their ability to turn every statement of fact into a question of motive.

I begin to wonder whether the advantage of the present day totalitarians, for practical purposes now all Marxists, lies in the related ability to win acceptance by us of language which exalts their motives and impugns ours.

This is a technique we have come to know as "semantic infiltration"* and it never lets up. Simply put, semantic infiltration is the process whereby we come to adopt the language of our adversaries in describing political reality. The most brutal totalitarian regimes in the world call themselves "liberation movements"; it is perfectly predictable that they would misuse words to conceal their real nature. But must we aid them in that effort by repeating those words? Worse, do we begin to influence our own perceptions by using them?

In recent months, the foreign policy of the Carter Administration has been bedeviled by a seeming inability to distinguish the proper meaning of political words.

During the summer of 1978, State Department spokesmen took to calling the pro-Soviet military organizations in southern Africa "liberation forces." Even as the State Department proclaimed its neutrality in the conflict there, its very choice of words — its use of the vocabulary of groups opposed to our values — undermined the legitimacy of the pro-Western political forces in the area.

We pay for small concessions at the level of language with large setbacks at the level of practical politics.

The Self-Styled 'PLO'

There is no better illustration than the ongoing controversy

* As I explained in my earlier article on this subject ("Words and Foreign Policy," *Policy Review*, Fall 1978), I have borrowed a phrase used by Dr. Fred Charles Ikle in a paper published by the Rand Corporation.

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over the support the United Nations has been providing for the grotesquely misnamed Palestine Liberation Organization. The PLO operates at the United Nations under a "cover" voted for it back in 1975 – the "Committee on the Exercise of the Inalienable Rights of the Palestine People."

On June 28, 1978, the Senate, without a single objection, adopted an amendment I had proposed to reduce the American contribution to the United Nations by our proportionate share of the Palestinian committee's budget. The United States pays about a fourth of U.N. expenditures, so we were, in effect, contributing about $200,000 to a PLO organization whose principal purpose is the dissemination of vicious antidemocratic, anti-Israeli, anti-American propaganda. Last fall, twenty-seven of my colleagues in the Senate joined me in a letter to the President urging, over again, that the funds be withheld.

To understand the committee, simply remember it was created by the General Assembly on November 10, 1975, the same day of the notorious resolution declaring Zionism to be a form of racism.

That venomous episode, of course, was the most brazen and ominous instance of the perversion of language in recent memory. And so it was necessary to warn at the time that this was but the beginning, that the totalitarian states were succeeding in destroying the language of human and political rights, that the very states that were enthusiastic supporters of the Soviet-inspired resolution on Zionism would inevitably find themselves victims of the same tactic.

With depressing predictability, the U.S. Department of State chose not to see an issue where one was clearly present. Apparently, there is no inclination to raise this matter at the United Nations directly, and a wholly misleading calm thus settles over the organization.

What else happens during this supposed era of good feelings? One example: On September 12, 1978, the "Decolonization Committee" of the U.N.'s General Assembly voted 10 to 0 (with 12 abstentions) to condemn the relationship between the United States and Puerto Rico. The Cuban resolution declared the United States was guilty of colonialism in Puerto Rico, of stifling political expression, of holding political prisoners.

Now the ten states that voted to condemn us were, without

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exception, dictatorial regimes – the Soviet Union, Iraq, Syria, Cuba, China, Bulgaria, Tanzania, Afghanistan, Chile, Czechoslovakia. All are guilty of what they falsely accuse the United States. Since when, for example, does the Soviet Union believe in the "inalienable right to self-determination and independence"?

For several years, I have maintained that we need to become far more sensitive to these distortions of political language that are everywhere around us.

The Costs of Distorted Language

The costs of inattention seem to escape even those among us who pride themselves on their "hardheadedness" in matters of geopolitics and military strategy. Surely, Soviet gains in Afghanistan or in Ethiopia or in some other place are visible. Their gains in the realm of political discourse may be less obvious, but nonetheless important over the long term. Consider: When the question of Puerto Rico was before a committee of the United Nations, not one country concluded that its interests could be served by identification with the United States.

These episodes are not isolated events. Rather, they are inseparable from a larger process underway since totalitarian power became a major factor in world politics. The totalitarians seek to supplant the West's political culture with their own system. In order to do it, they understand they must seize the symbols and the vocabulary of progress.

The irony is that, while democratic symbols are by far the most powerful in the world, the antidemocratic forces are somehow able to seize them, much as George Orwell described in his fable, *1984*.

Along about 1950, for example, Stalin's Russia had come almost to own the word "peace" in international debate. The more receptive the world becomes to Soviet linguistic imperialism the more will the nations of the world begin to accommodate themselves to Soviet strategic aspirations. In this way, the process of strategic accommodation can be effectively hidden – mostly from the future victims of Soviet imperial advance.

There was a time when the isolation of the Soviets and their sympathizers in the world body was one of the central facts of international politics. But precisely because of a peculiar

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American insensitivity to the problem of "semantic infiltration" these past years, the situation is now reversed. International politics seems, increasingly, to be a realm in which totalitarian concepts of politics and economics are prominent, if not dominant.

That the Soviets and other totalitarians will seek to seize control of the language of politics is obvious; that our own foreign affairs establishment should remain blind to what is happening is dangerous.

May I offer another example? The joint communique of October 1, 1977, issued by the United States and the Soviet Union on the Middle East was essentially a Russian draft, evidently so replete with Soviet code words as to have frightened the wits out of Anwar Sadat who promptly went off to Jerusalem to make peace on his own.

The Meaning of 'Hegemony'

It is not so certain whether anything as helpful will come from the language of a more recent communique, that between the United States and the People's Republic of China of December 15, 1978. The communique announced the establishment of diplomatic relations between the United States and China and led directly to the state visit of China's Vice Premier Teng Hsiao-p'ing — an event of no small significance. And I should be clear that I am quite prepared to accept the President's judgment that the establishment of Chinese-American diplomatic relations was the right thing to do and that this was the right time. It is the initial communique's language that is still upsetting.

The communique, which the President read to us on that remarkable Friday evening last December, said of the two nations that "neither should seek hegemony in the Asia-Pacific region or in any other region of the world, and each is opposed to efforts by any other country or group of countries to establish such hegemony."

The key word here is "hegemony," a term not employed by the American government prior to President Nixon's China visit. Indeed, the term had been used exclusively by the Chinese, in part for the purpose of portraying our own government as a band of illegitimate and criminal murderers. The word "hegemony" has a history.

The concept (and here I rely on the Library of Congress)

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appears in the Chinese classics written several centuries before Christ. The distinction was made between the legitimate king who ruled through moral suasion and proper example, and the contrasting usurper who attained power in an inhumane and unscrupulous fashion, and maintained himself in like manner.

The Chinese character for this latter type of ruler transliterates as "ba." Combined with the character "ch'uan," for mode or manner, you describe a form of government. A British sinologist, James Legge, who began translating these classics in the mid-nineteenth century, decreed that "ba ch'uan" be rendered into English as "hegemony." He could as easily have used the term "tyranny" or any number of other, more pejorative terms. *For to the Chinese the original pejorative meaning has never changed.*

In an interview with French journalists on July 14, 1970, the late Chou En-lai began to speak of "superpowers" – the Soviets and us. One of the attributes of "superpowers," he explained, was their inherent propensity to seek "hegemony." It was a distinction of the order we make when we speak of democracies and dictatorships.

This became a central theme of Chinese pronouncements. The Chinese aid to Vietnam in the Vietnam-American conflict could be seen as "resistance to 'hegemony.' " In 1972 Mao decreed, "Dig deep, store rice, never seek hegemony." He was surely referring to a presumed military threat from the United States, even as he was referring to the Soviets.

Complications with the U.S.S.R.

Now we move forward to December 15, 1978, and there appears a Chinese-American document in which we pledge that we will not "seek hegemony. . . ." On February 1 another joint communique was issued stating we ". . . are opposed to efforts by any country or group of countries to establish hegemony. . . ." It is almost as if the United States were acknowledging the legitimacy of the Chinese accusations laid against us almost a decade ago by agreeing to adopt a new course – to abandon "the way of hegemony." The outlaw, so to speak, turns himself into the authorities. This leaves but one outlaw nation still at large – the Soviet Union . . . and therein, not least, lies the difficulty.

For it is with the Soviet Union that the word stings deepest.

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In that bitterest of contemporary schisms, it excommunicates Moscow! Surely we are capable of understanding how deep such passions run. Or are we?

At the United Nations Security Council, in my time there, the one charge the Chinese could make to the Russians that visibly affected them was that of seeking "hegemony." I have seen Huang Hua, the present foreign minister, then China's U.N. representative, twist the word like a knife in Yakov Malik's ribs.

William Pfaff, in an article that appeared in *The Washington Post*, has written from Paris that the use of the word "hegemony" – "China's pejorative code word for Soviet policy" – was "a political and strategic blow to Moscow." Did we mean to strike that blow? If so, well and good. The President has to conduct foreign policy, and up to a point it seems to me good constitutional practice to support him in what he is, after all, elected to do.

But *did* he mean to strike that blow? Or was it more of our mindless acceptance of our adversaries' words to describe reality? Was there no *American* term that could have been used to describe our policy?

Let me offer an illustration of the inevitable difficulties when the consequences of a policy position are not well thought out. *The Washington Post* reported on February 2, 1979, that "Soviet Ambassador Anatoly Dobrynin called on Secretary of State Vance to raise 'some questions' about the use of the word 'hegemony'. 'Hegemony' is the Chinese code word for Soviet expansionism and aggression." What happens now? The Administration, supposedly interested in applying the principles of geo-politics in relations with the Soviets, now finds it is on the defensive, obliged almost to apologize – but not quite – to the Soviets. The Soviets, for their part, being tough bargainers and sensing a psychological opening, will surely demand substantive, not merely rhetorical, reassurances. And, unhappily, it is very likely that they will get them. For, in order to show that it harbors no alleged "anti-Soviet" intention, the Administration may well discover new arguments for "flexibility" (at the SALT talks possibly?), thereby completing a circle where what could have been a powerful diplomatic initiative is thrown back at us to our own disadvantage.

This is not a phenomenon of one Administration, but almost,

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I think, of our political culture. We seem unable to understand that while we can and must negotiate with totalitarians – among whom we find both Leonid Brezhnev and Teng Hsiao-p'ing – about the size of warheads and the price of wheat, we need not and ought not negotiate with them about our principles. And, certainly, we need not get into arguments about theirs.

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In **Part III,** to add an historical perspective, two papers examine British social insurance systems—the 19th century Poor Laws **(Stephen T. Easton)** and the unemployment relief of the 1918-1939 inter-war period **(Daniel K. Benjamin** and **Levis A. Kochin).** This Part also contains an econometric study of unemployment insurance programs across a number of countries **(Dennis Maki** and **Zane Spindler).**

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The Threat of the 'New Protectionism'

MELVYN B. KRAUSS

The term "protectionism" is associated in the public's mind with either a tax on international trade (a tariff) or a subsidy to trade (an export subsidy), the purpose of which is to give domestic producers a fiscal advantage over foreign producers. The internationalism of the 1950s and 1960s, which culminated in the so-called Kennedy Round of tariff reductions, largely, though not fully, eliminated this type of protectionism in the industrialized world. In recent years, however, protectionism has made a dramatic comeback in the world economy. A "new protectionism" has evolved that serves different goals and has different economic effects than the old one.

Economic Rights

The basic motivation for the "new protectionism" is the *extension of the concept of political rights to the economic arena.* Just as citizens in the Western democracies are entitled to freedom of speech, freedom of assembly and freedom of religion, workers in the industrialized world today *feel* they are entitled to a job in the occupation of their choice, in the geographic region of their choice and even at the income of their choice. The result has been that modern industrial governments seek to achieve a greater number of "target variables" than hitherto has been the case. No longer do governments aim only for full employment; they also aim for satisfactory *distributions* of employment among regions, races and sexes. To achieve these objectives requires extensive and quite specific intervention into the private economy.

The "new protectionism" is the manifestation of this demand for more specific interventions by government. The vehicle for protection today is less likely to be a tariff, the vehicle for the "old protectionism," which cannot distinguish between regions, races and sexes; a more likely vehicle would be a government or government-guaranteed loan at a subsidized rate, or a tax-break to a firm or industry, or a wage or employment subsidy to firms that agree to hire more women, black youths or whatever. These specific interventions all affect

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international trade, but they do not discriminate between the domestic and foreign sectors of the economy as would a tariff or export subsidy.

An important by-product of "new protectionist" interventions is that they concentrate enormous amounts of economic power in the hands of government officials and politicians. Tariffs are sufficiently broad-based and anonymous to make direct government intervention into the decision-making process of private economic actors unlikely. But because they are specific, often firm-specific, "new protectionist" measures such as subsidized loans to faltering firms often do involve the government bureaucracy in the day-to-day operations of the subsidized entity. This constitutes a much more direct threat to the workings of the market economy than the tariff or the export subsidy.

The extension of the concept of political rights into the economic arena and their securement by government has gone much further in Western Europe than in the United States. Specific and extensive interventions by government into the private economy are considered normal in the Scandinavian countries of Sweden, Norway and Denmark as well as in Holland, England and France. There are, however, significant pressures building in this country to increase government interventions into the private economy, not only by American liberals who want to "import" Northern European concepts of social justice, but by American businessmen who feel it is unfair that they should have to compete in an international environment in which their foreign competitors are subsidized while they are not. The argument, in effect, is that we should subsidize American business because foreign governments subsidize theirs.

International Subsidy Harmonization

The first question raised by this call for "international subsidy harmonization" is whether or not it is true that American business must compete in an international environment in which they are at a competitive disadvantage because their foreign competitors are subsidized and they are not (the second question is what is the proper U.S. response if this should be the case). That foreign subsidies do *not* put American business at a disadvantage in the international marketplace is clear once it is realized that foreign subsidies most often are

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financial *compensation* for an inefficiency imposed by government on the recipient to undertake the subsidized activity. For example, to induce firms to set up business in a depressed area – that is, to promote a "satisfactory" geographic distribution of employment – foreign governments give regional development grants. But relocation in a depressed area imposes *extra* costs upon the firm; if it didn't, the subsidy would not be necessary in the first place. The same can be said of programs to promote "satisfactory" racial and sexual distributions of employment. To look only at the subsidy and not at the inefficiency imposed on the firm by the subsidized activity gives a one-sided view.

Consider, for example, the recently imposed trigger price system to protect steel in the United States, supposedly in response to foreign subsidization of steel. Now, while it is true that U.S. Steel competes with British Steel, which is a nationalized firm that receives substantial subsidies, British Steel has certain "social responsibilities" imposed upon it that American steel producers do not. For example, British Steel cannot buy coal on the international market; it must buy British coal. The freedom of British Steel to close a factory in one locale and open a factory in another is severely restricted by government policy. British Steel, in other words, suffers from a myriad of cost-increasing interferences with its freedom of action that do not burden our industry. Whether the subsidies it receives from the British government are sufficient to compensate for these disadvantages is an empirical question. But what is certain is that looking solely at the subsidies British Steel receives vastly overestimates the *net* foreign subsidy. Indeed, when all factors are taken into account, what appears as a subsidy may well turn out to be a *net* foreign tax on their own enterprise.

Increased Vulnerability

It has been argued that the trend toward extending the concept of political rights into the economic arena has generated a type of protectionism that is, at the same time, more specific, difficult to measure, and dangerous to a free-market economy than traditional protectionist mechanisms. A second factor that has intensified the incidence of "new protectionist" measures is the increasingly integrated nature of the world economy. Because certain *political* decisions were made in the 1950s and 1960s that championed free trade (such

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as GATT, General Agreement on Tariffs and Trade) and because certain *technical* developments have taken place in transportation and communication that have brought national markets closer together and internationalized entrepreneurship and technology, the world economy today is significantly more integrated than ever before. This means, among other things, that today the domestic economy is more "open" and vulnerable to changes in the international marketplace than domestic politicians feel comfortable with. It is ironic, to say the least, that at the precise moment that domestic economies have become most vulnerable to changes from outside, their ability to cope and adjust to such change has been seriously constrained by the public's demand for "economic rights."

Prospects for the 1980s

New competitors from abroad, in many fields of endeavor, can be expected to appear on the scene in the 1980s, and their presence will be felt because of the openness of domestic economies. Adjustment of the domestic economy to the changed circumstances of the international marketplace will be resisted by "comfortable" domestic productive factors who feel that change violates their "economic rights." The result will be an intensification of "new protectionist" measures. Since many of the new arrivals on the scene will be from the lesser-developed countries (LDCs), the expected intensification of protectionism in the developed countries (DCs) during the 1980s very likely will be accompanied by bitter disputes between the DCs and LDCs over market access. To short-circuit this conflict, which already is shaping up, it is hoped that general economic conditions during the 1980s will be specifically buoyant to moderate protectionist forces in the industrial states.

But hoping is not enough! Industrial rationalization of DC industries can be encouraged by government refusal to protect them. Why should threatened sectors struggle to remain competitive if they know that government will shield them from foreign competition? The infant industry that is protected never grows up. The sick industry that is protected only gets sicker. But once it is clear that government help will not be forthcoming, it will be "sink or swim" for several older DC industries like textiles, clothing, shoes and even steel. Many

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could survive, on a somewhat smaller scale perhaps, if restructured and rationalized according to present day realities. This should be the goal of U.S. policy.

The 1980s will present challenges to America's export industries and multinational firms. Both have a vested interest in worldwide liberal trade and investment policies and will have to actively confront the weaker protectionist industries in the debate over trade policy in this country. If the U.S. turns protectionist, foreign retaliation is a virtual certainty. It should be noted that while economists traditionally have stressed the conflict between consumer interest and producer interest in the debate between free traders and protectionists, free trade also involves a conflict between the more and less competitive sectors of the domestic economy. Protection favors the less competitive sectors of the economy at the expense of the more competitive ones. The latter will have to be more vigorous in defending their vested interests than hitherto has been the case.

The Inherent Contradictions of the Welfare State

One of the important economic effects of the new protectionism is that it keeps resources in low-productivity and out of higher-productivity uses. Thus, the new protectionism reduces the average productivity of the economy's productive resources. This is one factor, among several, that accounts for the present stagnated condition of the industrial economies.

The new protectionism is part of a more general phenomenon that I have labeled "the inherent contradiction of the welfare state." Simply stated, the inherent contradiction of the welfare state is that the welfare state requires a high level of productivity to support it, but that welfare state interventionist policies necessarily reduce productivity levels. Hence, it is argued, the welfare state is not sustainable in the long run. It consists of policies that undermine the factors upon which it critically depends.

Disincentives to produce are inherent to the welfare economy. The commitment of the welfare government to provide economic security "from the cradle to the grave" cuts the link between production and consumption for welfare state citizens. The enjoyment of economic resources becomes unrelated to economic performance. Naturally, production suffers when both employers and employees know the state

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will bail them out no matter how poorly they perform.

Some of the disincentives to produce are planned; others are unintended by-products of welfare policies. Planned disincentives to produce are exemplified by programs that encourage workers to take an increasing amount of paid leisure time. The four-day work week and work rules that make sick leave too much of a temptation for many to resist are examples. On the other hand, as paid leisure time represents tax-free income in countries where marginal tax rates on work income are high — sometimes astronomically so — the increased demand for leisure time also is an unintended by-product of other social policies. The increased demand for leisure time in welfare states is reinforced because, while taxes are positively related to work income, subsidies are negatively related to work income. Taxes are reduced and subsidies increased as more leisure time is consumed.

The essential irony of the welfare state and the new protectionism it fathers is that the attempt to insure one's economic position serves only to insure the opposite. The demand for a secure economic position, regardless of the changes that are being wrought elsewhere, proves an illusion, because the attempt to obtain a secure income reduces the ability of the economy to produce it. The welfare state is self-destructive, and the new protectionism is an essential part of the self-destruct process.

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The IRS and the Private Schools: 'The Power to Tax Involves the Power to Destroy'

DONALD J. SENESE

A new "revenue procedure" proposed by the Internal Revenue Service has raised the issue of the rights of private schools in a nation which operates a public school system at all levels supported by taxpayers. Although this proposed procedure has been justified as a means of carrying out the law and social policy by removing the tax exemption of private schools which operate to racially discriminate among students accepted and faculty hired, the means by which the IRS seeks to operate departs from past procedures, raises the broad social question of whether tax deductibility (the absence of taxation by a governmental unit) is similar to a positively granted benefit such as federal or state aid from a governmental unit, and brings to the forefront the role of diversity in society promoted by private schools in a political and educational climate seeking a public (governmental) monopoly of education. The regulations as published in the *Federal Register* of August 22, 1978 (and even as somewhat modified by the IRS' announcement of February 9, 1979), present to the supporters of private education a major threat to the continued existence of a viable alternative to public education.

The proponents of a new procedure argue that the IRS needs new tools to effectively combat so-called "segregation academies" — private schools which were established to circumvent and avoid efforts to desegregate public schools. These schools attract the children of parents who resist the nondiscriminatory policies of the public schools including cross-town busing to carry out the objectives of desegregation. The parents pay tuition while these private schools maintain a racially discriminatory policy excluding minority students and members of minority groups from their teaching faculty. Further, the argument goes on, these private schools, while not receiving direct federal aid, do receive a benefit through tax deduction, especially in the absence from taxation of donations made to maintain these schools. Since these private schools are in violation of desegregation policy set down in the United States Supreme Court decision in *Brown* v. *Board of Education* (347 U.S. 483), other federal court decisions, and various civil

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rights laws (such as Title VI of the Civil Rights Law of 1964), the IRS must act expeditiously to deny tax exemption.

The question in dispute arises not over the power of the IRS to remove such tax deductibility (although such power is being challenged in some quarters), but rather over the extent of the IRS' power to make demands of private schools and set forth certain criteria which must be complied with in order to meet the IRS' test of a racially non-discriminatory school. Citing the already mentioned authority, the IRS sought to eliminate the "segregation academies" by ruling in 1970 that private schools found guilty of racial discrimination would not be eligible to receive tax deductible contributions nor would such schools be exempt from paying federal income tax. In 1975, the IRS expanded its role in this area of public policy by declaring that a private school, in order to maintain its tax-exempt status, must include a statement of the school's non-discriminatory policy in its by-laws, mention it in various publications (such as brochures and public relations materials) and also publicly announce its non-discriminatory policy at least once a year.[1] The IRS revoked the tax exemption of one hundred private schools judged discriminatory in Mississippi and other states in the 1970-1971 period.[2] It also acted to revoke more recently the tax-exempt status of the Prince Edward Academy of Farmville, Virginia, a school formed in 1959 at the time of the closing of the public schools in Prince Edward County to avoid desegregation. The IRS announced that the tax exemption had been withdrawn because of the refusal of the school officials to announce publicly that it was non-discriminatory in its hiring and enrollment policies.[3]

Despite the effectiveness of its power to deny tax exemption to private schools, the IRS in the regulations proposed in the August 22, 1978, *Federal Register* sought expanded authority over determining the non-discriminatory policies of private schools. IRS spokesmen justified the authority of their agency

1. "Proposed Revenue Procedure on Private Tax-Exempt Schools," Department of the Treasury, *Federal Register*, August 22, 1978.

2. Remarks of Stuart E. Siegel, Chief Counsel for the Internal Revenue Service, Stony Brook Tax Institute, Stony Brook, New York, October 26, 1978.

3. Kenneth Bredemeier, "Pr. Edward School Tax-Exempt Status Is Revoked by IRS," *The Washington Post*, October 14, 1978.

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to determine whether any organization qualified for tax exemption under Section 501 (c) (3) of the Internal Revenue Code by citing the common law principle that "to be treated as a charitable entity, an organization may not operate illegally or contrary to public policy." "Public policy" includes non-discrimination in public education and private schools; "racial discrimination" in private as well as public schools becomes "contrary to public policy."[4] Not content with its record of enforcement to date, Internal Revenue Service Commissioner, Jerome Kurtz, justified new rules, arguing that the existing procedures "have permitted some schools to obtain and continue tax exemption by having 'paper policies' of non-discrimination, while in fact continuing to operate in a racially discriminatory manner."[5]

The controversial proposed "revenue procedure" detailed by the IRS would classify private schools as "adjudicated" schools or "reviewable" schools. This former category would include private schools "which have been adjudicated by a court or agency to be racially discriminatory." The latter would encompass those private schools "created or substantially expanded at or about the time of public school desegregation in the community and have little or no minority enrollment."[6] Commissioner Kurtz, in commenting on the "reviewable" school category, observed that a "badge of doubt" falls on such private schools which "places the burden of proof on the school to prove, by clear and convincing evidence of affirmative steps, that, in fact, the school's facilities are open to all races."[7]

While reaction from private school officials has seriously challenged the criteria for bringing a school into the "reviewable" category, even stronger criticism has emerged over the affirmative steps a private school must take to prove its policy of non-discrimination. While the public expression of non-discrimination cited earlier is required, other defined steps are added to a private school's requirements in removing the IRS' "badge of doubt." The "reviewable" school must prove

4. Remarks of Stuart E. Siegel, *op. cit.*,

5. Remarks by Jerome Kurtz, Commissioner of Internal Revenue, 24th Annual Tax Conference, Minnesota Society of Certified Public Accountants, Minneapolis, Minnesota, November 3, 1978.

6. "Proposed Revenue Procedure on Private Tax-Exempt Schools," *op. cit.*

7. Remarks of Jerome Kurtz, *op. cit.*

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to the satisfaction of the IRS that it is operating in a non-discriminatory manner by showing the existence of *at least four of the following five factors*: (1) the availability of and granting of scholarships or financial assistance *on a significant basis* to minority students; (2) a program of *active and vigorous* minority recruitment such as contacting prospective minority students; (3) *an increasing percentage* of minority student enrollment; (4) employment of minority teachers or professional staff; and (5) *other substantial activity and evidence of good faith* in combination with lesser activities (such as significant efforts to recruit minority teachers, special minority oriented curriculum or orientation programs, minority participation in the founding of the school or current minority board members).[8]

'Reviewable' Schools

The IRS has proposed a formula for the "reviewable" school which defines it as a school which has a student body whose percentage of minorities is less than twenty percent of the percentage of minority school age population in the community served by the school. Thus, if fifty percent of the school age population in a particular community is minority, the school could escape the "reviewable" category if it had at least twenty minority students in a student body of two hundred students. This agency also placed a school formed or substantially expanded within a certain time period – any period beginning one year before implementing a public school desegregation plan in the community (whether voluntary or court ordered) and ending three years after the final implementation of such a plan – in the "reviewable" category.[9] The Commissioner of Internal Revenue, Kurtz, denied in public hearings in December that a "quota" was involved, asserting that only a "safe harbor" test was being proposed as a guide for the IRS examining agents. Thus, even if the "safe harbor" test is not met, the IRS "will extend its inquiry into other facts to make such determination" as to whether the school racially discriminates.[10]

8. "Proposed Revenue Procedure on Private Tax-Exempt Schools," *op. cit.*

9. *Ibid.*

10. Opening Statement by the Commissioner of Internal Revenue, Hearing on Proposed Revenue Procedure on Tax-Exempt Private Schools,

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Minorities for the purpose of the rulings are defined as separate groups of blacks, Hispanics, American Indians or Alaskan natives, and Asians or Pacific Islanders.

These proposed regulations elicited a storm of protest from private school officials, parents who have children enrolled in private schools, individuals who support a strong private education system, Members of Congress, and other public officials. Various religious leaders, including Catholics, Protestants, and Jews, also strongly objected. Underlying the publicly stated intentions of this proposed "revenue procedure," concern emerged that the enforcement of such regulations would assume private schools guilty of discrimination until they proved themselves innocent, would impose excessive burdens on such schools, would have a chilling effect on present and potential donors to private educational institutions, and would make the IRS an enforcer of "social policy" with a life and death hold over private schools (in its power to deny tax exemption and exemption from federal income taxes).

The outburst of opposition renewed fears that a powerful federal government would benefit public education to the detriment of private education by changing the rules. Supporters of the premise that private schools should follow non-discriminatory policies argued that little, if any, additional aid in pursuing a non-discriminatory policy would accrue to the IRS compared to the devastating effect such rules could have for the future of private education. The roles of private education and public education in the United States – and the future roles of each – have emerged as a key point of the debate on this IRS measure.

The early educational institutions founded in the American colonies had a religious base and sponsorship, and these continued after the United States won its independence from Great Britain. During the 1830s and the following years, a movement, led by Horace Mann, Henry Barnard, and others, made some advances in the promotion of a secular, public school system open to all and supported by American taxpayers. This idea took hold and the public school movement rapidly advanced in the post-Civil War period.[11] Both systems

December 5, 1978, in Washington, D.C.

11. Americo D. Lapati, *Education and the Federal Government* (New York: Mason/Charter, 1975) p. 17.

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were able to exist – and even flourish – side by side through the nineteenth century and into the twentieth century.

A major conflict – and legal precedent – occurred when the state of Oregon adopted a measure in 1922 requiring that all children between the ages of eight and sixteen would have to attend the public schools in their districts. In addition, it required that any instruction by non-public school teachers would have to have the approval of the county superintendent of schools. This law brought into question the monopoly of the state over public education and the rights of private education to exist and prosper free from unreasonable restrictions. The law was challenged. The United States Supreme Court in 1925 in *Pierce* v. *Society of Sisters* (268 U.S. 535) declared that the Oregon law unreasonably interfered with the right and liberty of parents and guardians to direct the education of the children under their control. While the nation's highest tribunal recognized that the state could exercise some authority over private schools (such as requiring attendance at some school of children between certain ages and the teaching of certain subjects), the decision denying the exclusive claim of public authority over education provided what Professor Americo D. Lapati has termed "a Magna Carta for private and parochial education" by freeing private schools from unwarranted or excessive interference by states or local school districts which might be unfavorably disposed to private education.[1 2]

The history of education in the United States has revealed numerous examples where the conflict between public authority and private religious education has arisen, including debates over "released time" for public school students for religious instructions, the use of public school facilities for religious instructions, free textbooks and bus transportation for parochial school children, and even voluntary prayer in the public schools. Issues of freedom of religion, First Amend-

12. *Ibid.*, pp. 157-158. The Supreme Court included in its decision a statement which became a rallying cry for supporters of private education:

> The fundamental theory of liberty under which all governments in the Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.

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ment rights and Church-State conflict were cited on both sides of the debate.

When the proposal to grant federal aid to elementary and secondary schools surfaced during the Administration of President John F. Kennedy, the renewed claims of public school advocates emerged in the debate. Private schools, aware of the danger of controls over their policies and curriculum, nevertheless claimed that federal aid for public schools at the elementary and secondary level would be detrimental to private schools. By using the money of all taxpayers to supplement state and local funds supporting public education, taxpayers who supported private education through voluntary donations (such as tuition and/or contributions) were paying twice, since their taxes at the local, state, and now federal levels were being used to support public education. The Presidential Administration of Lyndon B. Johnson witnessed the adoption of the Elementary and Secondary School Act of 1965 providing federal aid to private, nonpublic schools as well as public schools. This legislation, extended most recently for an additional five years by the 95th Congress, has seen a continuing debate over allotment of aid and control over school programs.

When the federal government began an active involvement in desegregation efforts following the United States Supreme Court decision in *Brown* v. *Board of Education*, especially through court-ordered busing plans, resistance to this development took a number of forms. An alternative to closing public schools (as Prince Edward County in Virginia did) or fighting an uphill battle in the courts in opposition to a desegregation order was the formation of private schools or academies which could set their own admission policies including selection and exclusion by race if they so desired. In setting its criteria for "reviewable" schools, the IRS sought to ensnare any of these "segregation academies" which had escaped its previous efforts to deny them tax exemption by bringing under review any and all private schools which were formed or grew substantially in size at the time of desegregation of public schools in the community. The basic assumption in the IRS proposed procedure is that a school formed or expanded during such time (especially if it has little or no minority enrollment or a lack of minority representation in its faculty) did so to perpetuate racially discriminatory policies, should be investigated, and,

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failing to fulfill the other criteria set by the IRS, should have its tax exemption revoked.

Tuition Tax Credits

The debate during the 95th Congress over providing tax credits for tuition paid to private schools resurrected once again the debate over the public versus private schools and conflicting claims on the allegiance of American society. Tuition tax credits for colleges and universities remained less controversial since the student faces tuition charges at the overwhelming majority of public as well as private institutions of higher learning. However, tuition tax credits allowable for elementary and secondary schools would especially benefit the private schools since public schools are free and supported by taxpayers.

Opponents of the tuition tax credit resurrected the earlier arguments citing the public school as the bulwark of our democratic system and stating that private education is "divisive"; they further argued that tuition tax credits would hurt the public schools, would cause a drain of the better students from public to private schools and would be unconstitutional under the First Amendment in providing aid to a Church via its educational institutions. Columnist Carl Rowan, for example, saw enactment of tuition tax credits for private school tuition as leading to a polarization in the country and envisioned an expansion of private schools which would "pop up" to take advantage of tuition tax credits; this measure would have "a destructive effect on public education in America in particular, and on this society as a whole."[13] The National Education Association, viewing itself as the defender of the public school system in democratic America against the onslaught of private education, lobbied strongly, enthusiastically,

13. Carl Rowan, "What the Tuition Tax Credit Fight Is About," *The Washington Star*, March 24, 1978. *The Washington Post* fought the tuition tax credit bill on its editorial page as a measure which would "erode one of the central institutions of American life" — the public schools. Fear was expressed that this legislation, if enacted into law, would promise "a multi-billion dollar bonanza to schools serving every kind of ethnic and social separation — by race, by class, by national background" and could swing money into private schools "to change fundamentally the balance between them and the public schools." "A Threat to the Public Schools," *The Washington Post*, February 27, 1978.

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and effectively against the tuition tax credit bill. President Carter vowed to veto any tuition tax credit bill passed by the Congress.

The proponents of the tuition tax credit bill not only pointed to the economic equity (the need to balance the full support of public education with some relief for the growing costs of private education), but also relied on the case for the diversity provided by a competing education system. Columnist George Will defended the tuition tax credit bill, focusing on it as a means to "use the government to nurture the diversity that the Constitution permits, diversity that the normal tendency of a large state is to surpress."[14] The bill would have benefitted the numerous nonpublic and mostly religious schools of varying denominations – schools formed to preserve a cultural and religious heritage and in negative reaction to the standard educational product being offered by an increasingly secularized public school system. Considering that any move to strengthen or preserve a viable private education system has always been viewed as a major threat to the public school monopoly over American education by its defenders, the strong opposition of the "educational establishment" was neither surprising nor unexpected. One of the co-sponsors of the Senate measure to provide tuition tax credits from the elementary through the university level, New York Democratic Senator Daniel Patrick Moynihan, effectively abstracted the major issue involved and pointedly identified the reason for such hostility:

> There are elements in the HEW bureaucracy which, quite simply, are opposed to private education, to anything which is not the creature of the state, and are also opposed to legislation that helps students and families without the need of means tests, application forms and the rest of the paraphernalia by which the bureaucracy extends itself.[15]

14. George Will, "How to Make Our Schools Better," *Newsweek*, October 3, 1977. Articles examining major points in this debate include Antonin Scalia, "Testimony on the Constitutionality of Tuition Tax Credit," (Washington, D.C.: American Enterprise Institute, March 1978) AEI Reprint No. 84; E.G. West, "Tuition Tax Credit Proposals: An Economic Analysis of the 1978 Packwood/Moynihan Bill," *Policy Review*, Winter 1978, pp. 61-75; Daniel Patrick Moynihan, "Government and the Ruin of Private Education," *Harper's* , April 1978, pp. 28-38.

15. "Tax Credit for Education," *The Washington Star*, February 27, 1978.

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Supporters of private education felt that the same motivating force in opposition to tuition tax credits reappeared in support of the IRS proposed "revenue procedure" on private schools. While the tuition tax credit proposals (which died in the waning days of the 95th Congress because of the failure of the House of Representatives and the Senate to reach an acceptable compromise) would have granted a tax relief to private education, the proposed IRS procedure, by denying a tax exemption to private schools for failing to meet specified IRS criteria, actually represented a greater, long-term threat to private schools. If a tax exemption were considered a positive benefit granted graciously by the federal government, such a threat (denial of tax exemption) could be used to force compliance in other areas besides racial policies concerning students and faculty composition.

While previous actions by the IRS have been cited to demonstrate the existing authority of the IRS to enforce its will against "segregation academies" refusing to follow federal policy on non-discrimination, the consensus in the testimony heard at the public hearings held by the Internal Revenue Service in Washington, D.C., in December 1978, was that these proposed regulations went far beyond what was necessary for the IRS to enforce non-discriminatory policies in private schools and would actually do the most harm to private, non-public religious schools which were free of policies which discriminated based on race. Many – the overwhelming majority – of these schools were formed to inculcate a certain religious view, to teach a certain view of life, to perpetuate the culture and religion of a certain ethnic or religious group, or to provide some specialized training lacking in the public schools. Many of the groups operating private schools have been in the forefront of the battle in opposition to racial discrimination. Yet, the broad sweep of the proposed regulations would easily ensnare these schools, subjecting them to added expense, IRS harassment, and adverse publicity. One editorial in a religious newspaper pointed out that private schools would "find themselves in the position of being forced to the time, trouble and expense of disproving that which does not exist in the first place," namely racially discriminatory policies.[16]

16. "New Guidelines," *The Catholic Standard* (Washington, D.C.) October 12, 1978.

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The attack on these guidelines focused on their vagueness, excessive demands made on private schools, the "guilty until proven innocent" assumption, the departures from past precedents, the enlargement of the role of the IRS in enforcing "social policy," and the severity of the penalty (loss of tax exemption) which could force a private school to close its doors because of an adverse ruling by the IRS. A private school might fail to meet the IRS guidelines for reasons other than a racially discriminatory policy – and yet suffer the loss of tax exemption. The school, forced into such a position, would have to undertake court action to overturn the IRS ruling; the loss of tax exemption (or even such a threat) would be a severe, possibly fatal, blow to many private institutions already overburdened with excessive costs and facing strong competition from a very heavily subidized public school effort.

The opposition to the IRS proposed regulations has crossed political and ideological lines. Five United States senators – Democratic senators, Edmund Muskie of Maine and Thomas Eagleton of Missouri, and Republican senators, Henry Bellmon of Oklahoma, John Chafee of Rhode Island, and James Pearson of Kansas (since retired) – wrote a letter at the end of 1978 stressing that the "proposed procedures and guidelines for determining whether an individual school has racially discriminatory policies are overly broad and could injure many institutions that are totally innocent of the anti-desegregation activities which the procedures are designed to reach." The letter added that the proposed regulations, even in setting the procedure for a private school showing good faith in combatting discrimination based on race, "simply do not take into account the complex situations of many innocent private and parochial institutions."[17] One Catholic newspaper editorialized that these measures would "put the schools to the proof of good faith on the basis of guidelines that are too vague" and that there is "no evidence of discriminatory practices" by Catholic schools.[18] Representative Ronald M. Mottl, Democrat of Ohio, viewed the proposed regulations as "a frightening threat to religious freedom." He noted:

17. "IRS Regulations Questioned on Discrimination in Private Schools," *The National Catholic Register*, November 5, 1978.
18. "New Guidelines," *op. cit.*

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> The regulations are poorly written; they have not been given sufficient thought; they are absurd; they are arbitrary; they involve the IRS in social planning and imposing social standards instead of being only the collection agency for our tax dollars; they are undoubtedly in conflict with the Supreme Court decision in the case of Bakke versus the University of California Regents; and there is a likelihood that if the regulations were to go into effect, that could be the first step toward federal control of private education.
>
> I am afraid these procedures are designed to herald an era of Federal domination of private choice over educational matters that can only lead to the demise of independent private schools. We have already witnessed the increasing abrogation of State and local autonomy in public education as a result of ever-increasing Federal involvement. Now IRS is moving to require both racial admissions quotas and minority hiring quotas for our private schools. It will not be long before the Federal bureaucracy is scrutinizing the textbooks, curricula choices, and teaching methods in these schools precisely as they do in some instances with schools that receive direct public support. If adopted, these procedures will close the last route of parental escape from the suffocating power of Washington over education in this country.[19]

Vague and Discriminatory Guidelines

One major difficulty private educators see in the proposal is the definition of "community" served. For example, a private school located in a white suburban area may have an active program recruiting minority students from the ghetto or inner city and could find itself expanded enough to become "reviewable," but not enough to meet the standard test (twenty percent). If a private school were similarly located, had not expanded, and did not actively recruit minority students, it could conceivably escape the category of "reviewable" school. The category of reviewability under the proposed IRS

19. Statement of U.S. Representative Ronald M. Mottl on Proposed Revenue Procedure on Private Schools, Hearings held in Washington, D.C., December 5, 1978.

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regulations creates a *prima facie* case of discrimination – a label which would make financial supporters cautious if they believed their contributions for the school would be later disavowed as an income tax deduction because the IRS had decided that particular school did not meet its guidelines. Besides the potential of stifling contributions, the types of activities envisioned by the IRS for a private school to prove it is not discriminatory would be extremely costly to a school and would further divert its limited resources.

Two related concerns have arisen. The twenty percent "safe harbor" figure for private schools as a test of racially discriminatory policies is actually a stricter standard than that required of public schools. In addition, the figure suggested appears not only arbitrary but an enforceable quota system especially repugnant to private schools in the light of the *Bakke* case.

The large parochial schools, conducted by such organizations as the Catholic Church, individual and private Christian schools, and Jewish groups, all share a common objective – isolation of their students from the public school and secular, cultural influences. A private, religious school might have parents declare that their children will not smoke, drink, and so on. Conceivably, the school could lose its tax exemption if such policies (or even its religious faith) were not effective in attracting minority students. An orthodox Jewish school would experience added difficulties because no matter how intensive a program of recruitment was adopted, it would be extremely difficult to satisfy the required quota since in most areas there are few black, Oriental, or Hispanic-speaking Jews. Many of these Jewish schools begin with a first grade and add a grade a year providing gradually a complete education – a substantial expansion each year. While in the mid-1940s there were about 39 of these schools, almost 500 exist currently. These schools would attract Jewish students from all over the nation – an appeal which is completely unrelated to the surrounding public school community.[20] Schools which attract certain students of a particular Christian belief may draw from a large geographic area for reasons unrelated to the surrounding

20. Statement of Martin B. Cowan, Secretary of the National Jewish Commission on Law and Public Affairs, Hearings on the Proposed Revenue Procedure on Private Schools, held in Washington, D.C., December 5, 1978.

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public school community. The IRS' proposed regulations would create difficulties for these schools even though they have a stated policy of non-discrimination and their other policies show no evidence of racial discrimination.

Certain religious groups may not attract a large number of minority members – black Americans may be mostly Protestant, rather than Catholic or Jewish, while Hispanics might be mostly Catholic in background rather than Protestant or Jewish. According to the proposed IRS regulations, such a school would have to compromise its religious mission by hiring teachers and attracting students not affiliated with the school's religious orientation in order to escape the IRS entanglement over racial discrimination and loss of tax exemption. Such power could pose a serious threat to a private school's academic standards, faculty hiring, and student recruitment policies; the IRS could soon be operating as a "Super School Board" over private schools. The shift in the burden of proof contemplated by these regulations makes the private school "guilty until proven innocent."

Some comment needs to be made on the precedents cited by the IRS. The IRS refers to *Norwood* v. *Harrison* (413 U.S. 455), a 1973 case, as an example where the burden of proof was shifted to the private school in order to rebut the presumption of racial discrimination because it (1) had been created and expanded in the wake of public school desegregation and (2) had no minority students. This case is a weak precedent since it involved a *direct tax benefit* (state aid in the form of a loan of free textbooks) rather than the direct economic benefit of a tax exemption. To assume that the tax exemption is equivalent to an aid grant would be to assume that other institutions enjoying tax exemptions (such as art galleries, hospitals, libraries) become arms of, and controlled by, the state in carrying out their functions. The Supreme Court in the *Norwood* case made part of its *prima facie* case of racial discrimination that no minority member had been in attendance as a student or employed as a teacher or administrator in the private school; the IRS regulations would be more demanding since less than twenty percent minority enrollment in relation to the minority population of the community would be considered evidence of racial discrimination. Senator J. Strom Thurmond, Republican of South Carolina, commented:

If the IRS now believes that some of the schools are

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operating in such a way that they are no longer eligible to claim tax exempt status, then it already has procedures by which it can challenge and revoke that status. Saving the IRS some time and trouble is not worth this rash and radical departure from existing law and traditional concepts.[21]

Critics of the proposed IRS regulations maintain that the IRS has been able to use its authority in eliminating the tax exemption of private schools found discriminatory without drastic change in the entire procedure and essentially a change in the burden of proof. Other alternatives do exist. Even taking part of the *Norwood* case, the IRS might place a private school in the "reviewable" category only if *no minority enrollment* is evident in the school. Or, a private school might demonstrate good faith by complying with two out of five (rather than four out of five) factors which demonstrate a non-discriminatory policy. Or, in the case of a specific group (such as Orthodox Jews), the test representation might be twenty percent of the particular minority that belongs to that particular religious group (for instance, if five percent of a community or group is black and Jewish, evidence of a discriminatory policy might be an enrollment of less than twenty percent of that five percent, making the school "reviewable"). All of these solutions have their difficulties but would be preferable to the broad sweep of "social engineering" the IRS is proposing to take in relation to all private schools.

Responding in part to the criticism and growing opposition to the regulations, the IRS announced in mid-February 1979 a revision of the August 22nd proposal. The proposed modification would seek a change in the "mechanical" formula used by the IRS to determine if a private school was discriminating. Setting aside the "20 percent test" and the stipulation that a school must meet four out of five criteria to meet an "affirmative" test, the IRS explained it would seek linkage if a private school's creation or expansion was "related to" local school desegregation and may even eliminate the necessity for examination in socially specialized cases (such as a Hebrew school). The local IRS agent would be given a new set of

21. Statement of Senator J. Strom Thurmond, Hearings on the Proposed Revenue Procedure on Private Schools, held in Washington, D.C., December 5, 1978.

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guidelines (such as consideration of the makeup of the local community, attitude of school officials) and these judgments would be automatically appealed to the IRS Commissioner to establish a uniformity of interpretation by the IRS agents.[22] Although the form of the proposed regulations has changed somewhat, the substance has not changed. A private school would still have the burden of proof, the presumption of being "guilty until proven innocent" remains, and the new guidelines are sufficiently vague to allow a great deal of judgment power to remain in the hands of IRS officials. The regulations still place the IRS in an adversary position against private schools.

State v. Private Education

The whole IRS approach to this proposed "revenue procedure" has raised serious questions as to the claims of the state (as represented by the IRS) over the claims of private education to exist and prosper without excessive government regulation. The whole issue of public schools versus private schools has surfaced again. If, in the words of Chief Justice John Marshall in *McCulloch* v. *Maryland* (4 Wheaton 316), "The power to tax involves the power to destroy," the power to deny tax exemption based on controversial criteria can also be the power to destroy, or at best seriously injure, private education. Historian Russell Kirk has observed that "Much evidence of a concerted campaign against 'non-public' schools — that is church-related and independent schools — may be discerned nowadays" and cites the IRS' proposed regulations on private schools, the National Labor Relations Board's attempts to compel church schools to engage in collective bargaining with their teachers, the payment by private schools of federal employment taxes, and the attempts of Kentucky and North Carolina to impose excessive regulations on private schools.[23] Members of Congress have expressed growing concern with the problems created by the proposed regulations and have called for congressional hearings on the issue and proposed legislation which would

22. Art Pine, "IRS Softens Proposal Aimed at 'Segregation Academies,'" *The Washington Post*, February 10, 1979. See Revised Regulations and Press Release from IRS of February 9, 1979.

23. Russell Kirk, "Tentative Victories," *National Review*, December 22, 1978, p. 1600.

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postpone or prevent adoption of such regulations until Congress has had the opportunity to study and act on the matter. Congressman Philip Crane has observed that sweeping changes of this nature should not be brought about by a unilateral agency action and that the IRS "should seriously reconsider any action primarily related to education policies and only indirectly related to tax-gathering."[24]

Whatever the outcome of the continuing battle over the IRS proposals, private schools will be seeking to maintain their autonomy and existence in the face of strong forces in American society which seek adoption of restrictive regulations and the strengthening of the public school monopoly over education to the detriment of any private, independent school system. These attempts to promote the proposed IRS regulations as a means to give the IRS new enforcement powers to eliminate racial discrimination in tax exempt private schools represent to private schools just another threat to their continued existence. They have been down this road before and remain determined to maintain a viable, alternative education system in American society.

24. Letter of Representative Philip M. Crane to Mr. Jerome Kurtz, September 29, 1978, in Extension of Remarks by Representative Crane, "IRS Proposed to Legislate," *Congressional Record*, October 5, 1978, E5427-E5428.

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Wanted: A U.S. Policy For Latin America

MILAN B. SKACEL

The winds of change that have been blowing throughout Latin America for over two decades have picked up velocity and threaten to become a full-fledged hurricane. But the hurricane control center in Washington has been closed for years, and the alienation of Latin America from the United States continues apace while, in the opinion of some students of hemispheric affairs, the Carter Administration's approach to the area lacks direction and brings to mind an ancient adage: "When in danger or in doubt, run in circles, scream and shout."

The running in circles is manifest in ill-advised, counterproductive trips and missions; the screaming and shouting is translated into lofty pronunciamentos on human rights violations south of the Rio Grande. There seems to be no cohesiveness, no discernible objective. Latin Americans, bewildered by this frenetic pseudoactivity, have come to the conclusion that we neither understand nor really care about the problems and aspirations of the 350 million people who live in what once we used to call our backyard.

The record tends to bear out the contention that our intentions are unclear, our goals blurred, and our interest erratic and suspect. For, self-serving rhetoric notwithstanding, we have been letting Latin America go by default. No comprehensive proposals have come out of Washington to revitalize and restructure our economic ties with Latin America; no special effort has been made to respond to the basic need of the Latin American countries for easier access to our markets; no substantive overhaul is contemplated of the complex and outdated rules and regulations governing our investment in Latin America and the Caribbean. Political and diplomatic overtures to Latin America reveal comparable lethargy and lack of initiative. There is no dearth of Madison Avenue sloganeering, and catchy phrases – such as Dr. Henry Kissinger's call for a "new dialogue" – succeed at times to temporarily massage a few egos and soothe Latin pride. But there has been little or no substance; what today passes for U.S. policy for Latin America is largely a cosmetic treatment glossing over the

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root causes of hemispheric problems. It is an exercise in orchestrated atmospherics.

It would be erroneous and unfair, however, to cast the Carter Administration in the role of villain. The "Inter-American System" President Franklin D. Roosevelt set up in the 1930s with his "Good Neighbor" policy had been steadily disintegrating long before the advent of Jimmy Carter to the Presidency. Presidents Ford, Nixon and Johnson had little or no interest in Latin America, and in the search for the last concerted U.S. effort to formulate and carry out a specific policy for Latin America one must go back to John F. Kennedy and the Alliance for Progress.

Yet, even the Alliance for Progress, an ambitious attempt to emulate the success of the Marshall Plan, was handicapped from the outset by our abysmal ignorance of Latin America and its built-in limitations. The Alliance had been ushered in with the customary ruffles and flourishes accompanied by rhetorical overkill. No challenge, after all, was beyond our capabilities; we had managed to convince ourselves and the rest of the world that the United States was a country with unlimited resources, an infallible problem-solver, a nation on a perpetual crusade in behalf of those less fortunate. The realization that Latin America was not Western Europe, that no public relations campaign could paper over deep-seated conceptual differences or bridge the chasm between our perception of the raison d'être for the Alliance and the insistence by Latin American leaders on determining their own national priorities, gradually helped shatter some of the myths and preconceived notions the Kennedy Administration had formed and nurtured about Latin America, but by then it was too late. Our hubris had been punished: the U.S. had created a self-perpetuating bureaucratic monster, a baby Moloch grumbling its discontent at the meager financial offerings; yet it was a creature to which we had given life and thus could hardly disown. So the Alliance labored on amid increasing disinterest, and its many tangible accomplishments were lost in a sea of self-pity at the realization that we could not "re-make" Latin America in a single decade.

The Alliance was the last grandiose scheme in the American "can-do" tradition. The trauma of Vietnam then brought forth a complete, at times irrational, re-examination of U.S. global responsibilities. It helped give rise to fresh neo-

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isolationist sentiment — much of it only dormant — and the United States was subjected to growing pressure to abandon its activist posture in international affairs and cultivate its own garden.

Latin America has been a prime victim of this tendency of the United States to look inward. With the exception of a few casual and often ambiguous nods in the direction south of the Rio Grande, Latin America and its problems have been consigned to oblivion. It is symptomatic of the prevailing disinterest in Latin America that in the U.S. Congress, which is replete with lobbies, there is no Latin American "lobby"; the knowledgeable senators and representatives who have spoken forcefully and persuasively about the need for a new approach to U.S.-Latin American relations are crying in the wilderness. There has been no concerted effort by Congress or the media to raise public consciousness and dramatize the danger inherent in any further deterioration of our position in Latin America.

Years of Neglect

The danger is now in sharp evidence, for the years of neglect have exacted a heavy toll. The political influence of the United States in Latin America continues to wane, and our economic position is under steady assault. Europe and Japan, the Soviet Union and the Eastern European countries — all have made inroads in the area; even the Arabs are exploring closer economic ties. Moreover, anti-U.S. sentiment, kindled by rising nationalism tinged with chauvinism, has become so widespread and so fashionable that it is a favorite ploy of current and would-be leaders in many a Latin American country.

This grim picture, a living testimonial to our ineptness, insensitivity and compulsive dilettantism in foreign affairs, is even more disturbing when one considers the enormous stakes the United States has in a friendly Latin America.

More than $1 of every $7 in goods sold by the U.S. is destined for Latin America; our exports to the area were worth over $17 billion in 1977. Last year we bought an estimated $18.5 billion worth of goods from Latin America, accounting for $1 of every $8 we pay for imports. Private U.S. investment in Latin America is in excess of $18 billion, or about $1 of every $7 worldwide. Some three million Latin Americans visited the United States last year — a small but not quite

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negligible contribution to our otherwise seemingly losing battle against huge trade deficits. Moreover, until very recently, the U.S. perennially had a favorable balance-of-payments in trading with Latin America; the current adverse trend reflects, in part, the erosion of our economic position in the area.

Economic considerations are reinforced by today's political realities. The United States already confronts complex problems around the world, such as the prospect of intensified struggle with the Soviet Union, the uneasy truce in the Middle East, racial strife in southern Africa, the problem of OPEC and the spread of Eurocommunism. Trouble in or with Latin America would tax our limited resources even further, conceivably beyond our present capabilities.

In view of these facts, which are both irrefutable and readily available, our cavalier treatment of Latin America defies comprehension.

It must be noted, however, that the Carter Administration has taken a constructive step in the direction of better hemispheric relations by addressing the thorny issue of the Panama Canal, although the new treaties, admittedly, remain a source of legitimate controversy. Yet, when the large picture is considered, President Carter, Secretary Vance and others directly involved cannot but be commended for their courage and determination in bringing the Panama Canal issue to a resolution. No matter how much or how little importance one may place on the quest for better relations with Panama, it is indubitably in our national interest to foster amity with the nations of Latin America and the Caribbean. And, the Canal issue was a potential powder keg that eventually had come to be widely viewed by Latins as the acid test of America's goodwill and good faith. Moreover, the Canal was a tailor-made cause for demagogues and professional Yanqui haters who would hold volatile Latin audiences in thrall while inveighing against a "colonialist" superpower that had lost its will to oppose Soviet expansionism and was reduced to demonstrating its machismo at the expense of a tiny land of 1.7 million people.

But the removal of the Panama Canal controversy from the inter-American agenda does not automatically signal the dawn of a new era in hemispheric relations. The United States still has no comprehensive, credible policy for Latin America, nor are there indications that one is about to be unveiled.

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When one speaks of a policy for Latin America it is with full awareness that the area is no homogeneous entity. The problems, aspirations, even cultural heritage of an Argentine, for example, are often markedly different from those of a Guatemalan, let alone an English-speaking Jamaican. A policy for Latin America, therefore, neither could nor should supersede carefully structured individual U.S. policies for each country south of the Rio Grande, since only such policies can take into account specific national traits, idiosyncrasies and basic needs.

In the context of hemispheric relations, however, there also has to be a U.S. policy for Latin America in general. Most of the problems defy a bilateral approach, and the fresh challenges the U.S. confronts there can be dealt with more effectively on a regional basis.

A policy for Latin America need not call for costly new programs, the funding of which we can ill afford and for which a national consensus may not be obtained. But it should address all areas of shared concern and contain, in broad terms, a set of principles for an overall U.S. approach to Latin America.

A New Approach to Latin America

The new approach is new mainly in the sense that while its individual components have been widely discussed and even postulated, it has not been implemented on a systematic basis. The underlying message is hardly revolutionary; it simply reflects present-day realities.

– The era of U.S. paternalism is over. The nations of Latin America and the Caribbean insist on full partnership, including the right of consent or refusal, in any hemispheric initiative. The hortatory finger, teacher-pupil relationship and outburst of moral indignation are resented and largely ignored, especially since the United States continually acknowledges that it too has feet of clay.

– The campaign to export our brand of democracy must come to an end. The Latins demand from us respect for each country's inalienable right to choose its own system of government – no matter how unpalatable such a government may be to a nation of a different ideological persuasion. It is no concern of ours, the Latins contend, if their governments are not "representative" in our sense of the word; few governments in today's world are.

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– An evenhanded approach to the countries of Latin America and the Caribbean is a prerequisite for improved hemispheric relations. The U.S. must abandon its standard operating procedure of over-reacting to developments which, while perhaps unwelcome, pose no acute danger to hemispheric security, and then promptly consigning the root cause of the problem to oblivion once outward calm has been restored. The United States has to learn to evaluate trends and developments in Latin America in terms of their lasting, long-range impact; too swift a reaction, while at times necessary, usually reflects absence of an overall concept. A policy based solely on improvisation precludes broad acceptance, since it can be explained and justified neither to the Latins nor to the American people.

– The rhetoric must be toned down. Few Latin American leaders thoroughly understand the intricacies of our system of government, and it has to be made clear to them that even tentative commitments of an administration are contingent on the approval of others in the seats of power, notably members of the U.S. Congress. An administration, therefore, should confine itself to proposals it is reasonably certain will get the necessary support and ultimate acceptance, proposals of understatement and lowered expectations, rather than bombast and unrealistic promises.

Political and Economic Cooperation

A fresh approach to U.S.-Latin American relations, however, cannot achieve the desired impact unless the United States learns to understand and accept Latin American political realities.

One reality is that the military is widely perceived as the sole permanent cohesive force, often as the only force capable of guaranteeing stability and continuity. The military today is no longer an exclusive fief of the oligarchy. In some countries the elite still controls the armed forces, but in an increasing number of nations the key officers are of lower middle class or even "proletarian" origin. As a result, the various military regimes span almost the entire ideological spectrum, including the traditional military-oligarchic dictatorship (Nicaragua), the rightist military regime (Chile), the more moderate rightist military rule (Brazil), and the nationalist-leftist military regime (Panama).

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In some countries, the military has become a force for reform; in other countries it upholds the status quo. Its impact on political, social and economic development, however, is decisive in most of Latin America.

One of the reasons for the proliferation of military rule is that the political center is either non-existent or in disarray in all but a handful of Latin American countries. With the exception of a few genuinely democratic states, such as Venezuela, the political center is only marginally represented in government. Where it exists or is permitted to exist, it lacks the muscle and broad-based support to singlehandedly effect change.

Nor is the primacy of the military acutely threatened by either of the two other repositories of actual or latent power – the intellectual community and the Roman Catholic Church. The intellectuals, as a class, are generally distrusted by both the military and the slowly burgeoning middle class. Rightly or wrongly, they have been accused of helping to over-politicize Latin American universities and of allowing themselves to front for political extremists. They have few opportunities to help shape events, and their influence is largely restricted to students who may create occasional havoc but wield no power. The influence of the Roman Catholic Church, on the other hand, remains relatively strong, especially in the rural areas. But the Church confronts a deepening abyss between "traditionalists" and "progressives," and as the centers of power are in the cities – where the military is dominant – its impact on events is somewhat erratic.

In view of the absence of a viable democratic center in most Latin American countries, it is unrealistic to advocate, as some do in the U.S., that we confine our political and moral support to the "progressive elements" in Latin America. It can be argued, moreover, that some military leaders in Latin America are essentially more "progressive" than scores of doctrinaire intellectuals, who are often more interested in safeguarding the pristine purity of their particular dogma than in fostering a country's economic development and raising the standard of living of a population with which most of them have no personal contact whatsoever.

There is, of course, little doubt that an overwhelming majority of Americans look askance at any military regime, that we prefer a democratic form of government. But, as the

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Latins point out, it is inconsistent and discriminatory for the U.S. to apparently accept as "inevitable" the practice of doing business and maintaining correct relations with the totalitarian and authoritarian states of Africa, Asia, and Eastern Europe, while castigating a Latin American military regime as "undemocratic" and "unrepresentative."

Had the U.S. not ceased to forcefully champion self-determination and democratic rule on a global basis and were our current human rights crusade not so patently selective, a case could perhaps be made for discreet proselytizing in Latin America. Under the present-day circumstances, however, we lose credibility and incur ridicule and fresh animosity, if we single out Latin America as the only area where, in our opinion, democracy and self-determination can and must flourish in their optimal incarnation.

There are other reasons, including some of hemispheric security, that we should free the Latin military from the special public pillory we seem to have erected solely for their benefit. No one contends that the regimes of Chile and Nicaragua, for example, represent enlightened government. But, we had better realize that a rightist regime rarely poses a threat to its neighbors, because it is predominantly inward-oriented. A communist or ultra-leftist dictatorship, on the other hand, is driven by built-in messianic zeal; it feels compelled to spread its "message" beyond its borders, in one way or another. It, therefore, represents a constant threat to the security of other countries. Moreover – and this distinction was sharply and ably made in a recent article by Ernest W. Lefever* – authoritarian regimes allow a significantly greater degree of freedom and diversity than do totalitarian dictatorships. The Videla Government, for example, may indeed have committed unconscionable acts during its all-out campaign against terrorists, but the people of Argentina still enjoy more freedom in all spheres of activity than do the Cubans. And yet, perversely, the present Argentine Government is viewed by some Americans as a bete noire par excellence, while all sorts of apologies are periodically offered for the Castro regime – whose main achievements are military

* See Ernest W. Lefever, "The Trivialization of Human Rights," *Policy Review*, Winter 1978.

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adventurism in Africa, almost total economic dependence on Soviet largesse, and systematic suppression of human rights.

Yet, even if we discard the odd delusion that every self-styled "progressive" is a humanitarian and all military men are Neanderthals and learn to recognize and accept – however reluctantly – Latin American political realities, we cannot hope for substantive improvement in hemispheric cooperation unless we also reexamine our economic relations with Latin America.

Political and Economic Inter-Relationships

One of the main problems in formulating a credible, imaginative policy for Latin America lies in the long-standing practice of treating political and economic considerations as separate, almost autonomous entities. Politics and economics in today's world are inexorably welded together, yet too many political leaders and economic experts in the Western Hemisphere still confine themselves to viewing inter-American relations solely through their own limited prisms.

The United States Foreign Trade Act of 1974, or rather a clause inserted in the Act by Congress, is an example of the danger attending imperfect understanding of the interrelation between politics and economics. The clause excluded members of OPEC from new tariff preferences, and Ecuador and Venezuela – as OPEC members – were directly affected. And yet, neither country joined the 1973 Arab oil boycott – the motivation behind the clause – but continued to supply oil to the U.S.without interruption. The inclusion of Venezuela and Ecuador had political repercussions throughout Latin America and was a classic example of the failure to evaluate political implications of an economic measure.

It may well be that the implied "special relationship" with Latin America no longer exists, but this surely does not mean that the Latin American nations are now to be singled out, by omission or commission, for punitive action. Fresh perspective is clearly in order, and only by offering tangible proof that we understand and are willing to help meet some of Latin America's basic economic needs can we expect and demand genuine cooperation that is based on enlightened national self-interests.

It must be recognized, however, that closer economic cooperation with Latin America will bring in its wake some

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difficult problems. The conflict here is between short-term impact and long-term objective. The issue is the U.S. market.

Latin Americans resent the fact that they are still regarded as little more than custodians of relatively cheap raw materials and primary products. Fifteen years ago, we actively encouraged the Latins to diversify their economies, including exports. Now that they are in the process of implementing our suggestion they feel it only fair to seek and obtain an easier access to our markets for their products.

There is no doubt that, in the short run, granting concessions, such as new preferential tariffs, could cause economic problems and sporadic dislocations in the United States. U.S. business and labor would be averse to opening up the U.S. market to additional products that could effectively compete with those produced or manufactured domestically; the impact on employment and profits, although relatively negligible, would probably help generate an anti-Latin reaction.

But, such considerations cannot be allowed to influence the larger issue of the national good or the policies of a superpower with global commitments and interests. We can separate economic and political realities only at our peril. If we are guided exclusively by our immediate domestic needs, the prospect of an influx of Latin American goods admittedly is not too attractive. But, we cannot lose sight of potentially far-reaching implications if we continue to treat the Latins as unwanted orphans. It is conceivable that most Latin American republics would be drawn farther and farther away from the United States politically if their economic needs continued to be manifestly unappreciated or ignored outright.

Thus, a policy for Latin America must be both implicit and explicit in addressing the urgent need for a new economic and political accommodation. There are, of course, a myriad of other critical issues to be resolved, such as reaching a hemispheric consensus on Cuba, reorganizing and revitalizing the Organization of American States, and creating a more effective instrument for inter-American security. But, each of these complex issues deserves more than a parenthetical paragraph.

The intent here has been to offer a conceptual framework within which a policy for Latin America should be formulated. And, in addition to addressing the problems at hand, such a policy also should offer hope and inspiration for the future.

For, the United States and its Latin American partners have

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yet to even scratch the surface of the bonanza that can be unearthed and fairly divided once the countries of the Americas cease to confine themselves to narrow nationalistic objectives and begin to think in terms of the entire hemisphere. By the year 2000, there may be close to one billion people living in the Western hemisphere. Surely the time has come to recognize our interdependence and collectively draw up and start implementing an overall plan that will help ensure that most of these people will be able to live in peace and dignity.

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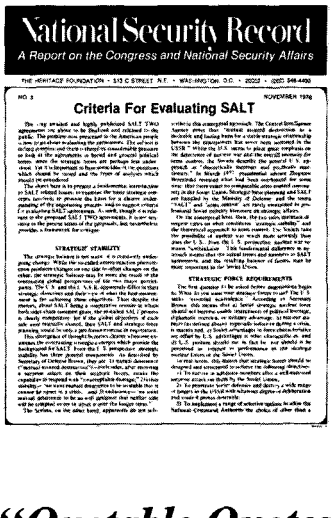
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Politics and Language: Why There Are No 'Authoritarians'

SHIRLEY ROBIN LETWIN

Being "authoritarian" is generally considered to be a bad thing. Governments of which we disapprove – whether Communist Russia, Nazi Germany, Col. Qadhafi's Libya, Chile, or Rhodesia – are said to be "authoritarian." What do all these "authoritarian" regimes have in common?

The word suggests that they exercise "authority." If we ask what constitutes exercising authority, the answer is that it means ordering people around and thereby destroying their liberty to do what they choose. And, consequently, admirers as well as opponents of "authoritarianism" agree that the world is divided between "authoritarians" and "lovers of liberty."

Although this way of speaking is endorsed by the *Oxford English Dictionary*, it has only recently become widespread. The first definition of "authoritarian" recorded in the dictionary appeared in the *Daily News* in 1879 as "Men who are authoritarian by nature and cannot imagine that a country should be orderly save under a military despotism." The earliest example of our current usage is taken from the *Encyclopedia Britannica* of 1884, in which a person is described as "A lover of liberty, not an authoritarian."

That something is nevertheless wrong with this usage becomes obvious when we ask the opponents of "authoritarianism" (who are likely to talk also of authoritarian parents and teachers) if they object to a parent's ordering a child to stop eating hemlock, to a teacher's command to use a pen for writing rather than throwing, or to a judge's acquittal of a defendant. The answer is almost certain to be no, even though in all of these cases someone is being ordered to do something. This suggests that there may be different sorts of orders, some more desirable than others, and that we should take care to distinguish them.

Such a suggestion is not in keeping, of course, with the belief, popular now, that the perfection of civilization consists of eliminating all orders and emancipating human beings from any form of submission. But this belief, like the word "authoritarian," is part of the new barbarism. It not only implies that no

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one should ever be taught anything, defer to anyone, recognize any superiority in others, or accept any division of labor, but it also denies what used to be a truism among educated people – that civilization increases with the ability to make more refined distinctions among different kinds of orders and submission. One of the greatest achievements of Western civilization is the elaboration of a distinction between "authority" and "power," and that distinction is inseparable from the peculiar Western appreciation of human individuality of which the lovers of liberty are supposed to be the guardians. But this distinction is obliterated by using "authoritarian" to denote the opposite of a lover of liberty.

The failure to distinguish authority from power is due to something more than carelessness. For one thing, it seems plausible to use the two terms as synonyms because not only do both command submission, they also connote an element of arbitrariness.

When a gunman compels me to do his will because I am afraid of being shot, it is obvious that there is no justification for his order other than his will to give it and that it is, therefore, an arbitrary exercise of power. But when a judge sends me to prison, he may claim that his action is justified by the regulations governing the conduct of all judges and that, therefore, his sentence is not arbitrary. If, however, I believe that I was wrongly sentenced, and if, moreover, my belief is supported by other judges, I may not accept this justification and may accordingly regard the judge's action as no less arbitrary than the gunman's. But this betrays confusion.

Confusion Over the Meaning of the Word

The confusion arises from supposing that, if there can be disagreement about the justification for an exercise of authority like the judge's, it must be as arbitrary as the order of the gunman. People who believe that are apt to believe also that the only genuine question is whether an exercise of power produces desirable consequences and that all talk of "authority" is a rhetorical device designed to cover up an undesirable exercise of power. That is the view of those who, by demonstrating or striking, use what power they can muster to undo official decisions of which they disapprove. But they fail to recognize that the arbitrariness in an exercise of authority has a fundamentally different character.

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It arises from the fact that even if men agree at an abstract level, they can always disagree on what that implies about how to proceed here and now. They may agree that it is desirable to be prosperous, or good, or pious, and yet reasonably disagree about how to achieve it. They may accept the Bible as the revealed word of God, but disagree about how they should live the Christian life. They may agree that they should honor their parents but disagree about whether that entails obeying their parents' wish that they enter the family business or marry this person rather than that. About many things it may not matter whether we agree. But some disputes must be settled if men are to live together in peace. Even if everyone were always ready to give way, there would be no knowing when the yielding had to stop. There may even be disagreement about how much agreement is needed.

Disagreement can, of course, be ended by force. A squabbling community can be reduced to order by a ruler who beats, shoots, and frightens everyone into silence. But the only way to deny that disagreement is inescapable is to suppose that human beings have a pipeline to indisputable truth which can tell them precisely what to do here and now and that all differences of opinion must be due to ignorance. If access to this pipeline is supposed to be enjoyed equally by all people, it follows that we should seek to live in a commune where everyone "spontaneously agrees." If only a few are supposed to enjoy access to this pipeline, then everyone else ought to be taught to accept their commands as if they were the words of God. None of this, however, can be accepted by lovers of liberty who deny that any human being can know the mind of God or the Inevitable Tendency of History, who believe that a man's humanity is expressed in his power to make his own life as he chooses and who value the individuality of human beings. All of this means that lovers of liberty neither deny nor disparage the human talent for disagreeing.

If arguments about human arrangements cannot lead to indisputable conclusions and agreement is wanted, we must somehow settle our disputes without agreeing. The only peaceful way to do so is to appoint someone — to give him the "right" or "authority" — to decide our disputes. His decision will always be arbitrary in the sense that it will be impossible to demonstrate indisputably that it is a right decision or, especially, the only right decision. And this remains true even

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if everyone agrees with him. Nevertheless, this sort of arbitrariness is nothing like the arbitrariness of the gunman's order, because the man who has "authority" is recognized to have a "right" to decide by those for whom he decides; they believe that they *ought* to abide by his decisions and obey his orders.

Whether, in fact, anyone obeys an authorized order may depend on other things. He may have to be compelled by fear of punishment to do what he believes that he should. But whether or not he complies willingly does not affect the "authority" of the order or his sense that it is "authorized." And this distinguishes authority from power. Whereas the authority to command is unaffected by the response to it, whether a man has the power to command depends wholly on whether he is obeyed. Once his commands are not obeyed, his power to command ceases to exist.

Authority and the Rule of Law

Yet, in a sense, authority is like the tree in the quad which existed only when the philosopher was there to see it. For no one can have authority without being recognized to have it. And the implications of this are far-reaching. In a very primitive or simple community, such recognition may be merely a tacit acceptance of the decisions made by some elder, chieftain, or king. But in more complicated communities, authority is inseparable from law because it is impossible to recognize who has the right to decide what and when without elaborate rules defining offices, duties, and procedures. If decisions are not made according to such rules, no one can know who is authorized to do what, and there can be no respect for authority. Moreover, the rules must be stable because otherwise they cannot be known. In short, authority is inseparable from the rule of law.

Indeed, without the idea of authority, the rule of law is incomprehensible because its purpose is to distinguish authority from power. The reason for respecting authority is identical with the reason for wanting the rule of law; only a system of rules which defines who decides what, when, and in what manner can secure peace in the profound sense, that is to say, not just an absence of conflict but a condition in which there can be stable expectations, in which every man can know from one day to the next what is his own, what may be demanded of him by whom, how he and others may resolve their

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differences without conflict. These definitions, however, will not be indisputable and the stability will not be perfect and, therefore, arbitrariness will not be wholly absent. But it will be radically confined within areas that can be easily identified and dealt with by known, regular, predictable procedures. Consequently, it is nothing like the arbitrariness that prevails when orders may be issued by anyone who happens at a given moment to be strong enough to get away with it.

Odd though it may seem, the element of arbitrariness in exercising authority has an important advantage for lovers of liberty. It explains why respect for authority does not oblige us to agree with authorized decisions. It obliges us to accept certain procedures for settling disputes and the decisions reached thereby and to obey what they command. But it leaves us free to disagree with authorized decisions, whether it is because we do not accept that they follow from the arguments mustered for them or because we consider their consequences undesirable. Therefore, in a community where order is maintained by a respect for authority, rather than by the "leadership" of the wise or the good or by "spontaneous agreement," it is possible to live in peace without being reduced to uniformity. And that is why lovers of liberty ought to prefer order based on "authority." If they denounce the exercise of authority, they talk nonsense because they contradict their declarations of loving liberty.

Authority vs. Tyranny

The real opposite of liberty is tyranny — the arbitrary exercise of power. A more polite and familiar name for a tyrant is an "autocrat." But we have ceased to talk about either tyrannical or autocratic governments, because we have come to believe that the only thing that matters in arriving at public decisions is how many people have had a chance to vote "aye" or "nay." In other words, we have become blind worshippers of the machinery of democracy. And that probably explains why the word "authoritarian" appeared at the same time as an infatuation with voting, which was supposed to define a "democrat," became rampant.

Lovers of liberty came to feel obliged to condemn any government that is not "democratic," that is to say, given to letting people make scratches on ballots. They forgot that a democratic government need not be one that rules by law,

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that a democracy may as easily be tyrannical as governments run by a few or by one man. Indeed, many of the democracies in which lovers of liberty rejoice are tyrannies, and others which still preserve the forms of the rule of law have been steadily destroying its substance by allowing ever greater latitude to arbitrary power by setting up tribunals, authorities, and other quasi-governmental bodies operating under so-called "administrative law." Indifference to distinguishing the exercise of authority from exercises of arbitrary power made the word, "authoritarian," acceptable and its use has helped to make even the best educated today incapable of distinguishing between authority and power.

Now that "authoritarian" is established as the antonym of "democratic," any government or policy which displeases someone is denounced as "authoritarian." The would-be tyrants among us sound plausible when they try to undermine the rule of law by denouncing any authorized decision that stands in the way of their gaining power as "authoritarian." Rule by the mob in mass meetings and demonstrations, blackmailing the community by strikes, all arbitrary exercises of power become sanctified as "anti-authoritarian" because they involve large numbers of people and are therefore supposed to be "democratic" and the opposite of "authoritarian."

There is a great deal more to be said about the character of the rules defining authority. Not all laws help to keep authority distinct from power. Laws that enable powerful groups to coerce others into doing their will, laws that in effect grant a license for arbitrary exercises of power, destroy the distinction between authority and power. In other words, the fact that laws are supposed to define authority does not free us from the obligation to scrutinize proposed laws to determine whether they will serve to promote or to destroy a sharp distinction between authority and power. But neither does the fact that some laws may be bad laws in this sense allow us to claim a right to disobey authorized decisions whenever we may think it desirable. There may be times when we consider such action justified. But it ought to be called by its right name — making a revolution.

As things now stand, it is all too easy to make a revolution insidiously by denouncing "authoritarianism." Those who genuinely love liberty ought to be the first to resist any attacks on or confusion of the idea of authority.

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An Analysis of Carter's Wage Insurance Plan

EUGENE McALLISTER

On the evening of October 24, 1978, President Carter introduced Phase II of his battle against inflation. The program consists of voluntary wage and price guidelines, a pledge to reduce the 1980 budget deficit, a promise to investigate the inflationary impact of government regulations, and a proposal for "real wage insurance."

Real wage insurance, conceived by Arthur Okun of the Brookings Institution, is designed to offer workers accepting wage contracts below a target level some protection should the actual inflation rate exceed the inflation rate anticipated by the government. Under the Carter proposal workers settling for an increase of less than 7 percent would receive a tax rebate based on the difference between the actual rate and 7 percent. For instance, with an inflation rate of 9 percent, workers might expect a 2 percent rebate.

The Administration anticipates that the program will cost $2.5 billion in fiscal year 1980. This is based on the assumptions that the inflation rate will be 7.5 percent and that 47 million out of the 87 million eligible workers will comply. All workers, with the exception of the self-employed, will be eligible. The insurance is offered for the one-year period, October-November 1978 to October-November 1979. Inflation above 10 percent will not be covered, nor will wages or salaries in excess of $20,000.

The skepticism with which this program has been greeted in many quarters, is based on a variety of factors. Despite assurances to the contrary, many question the real administrative costs to both employers and the government. There is also concern that the flexible treatment of both wages and fringe benefits will make compliance with the 7 percent target much easier and less effective. Finally, many economists believe that the Administration has underestimated both the cost of the program and the 1979 rate of inflation.*

* The inflation rate for January 1979 computed on an annual basis was 16 percent.

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The purpose of the real wage insurance is to offer labor an incentive for wage demand restraint. The strength of the incentive, however, is doubtful.

Large wage contracts are usually negotiated on a three-year basis. Yet the insurance is offered for only one year. A union, to restrain its demands, must have a sanguine view of the inflation rate in the second and third years.

Adherence to the guidelines imposes real costs on the employees. For example, under a 7 percent guideline a union correctly anticipates a 9 percent rate of inflation. The members will be better off accepting a 9 percent contract than settling for 7 percent initially and later accepting a 2 percent rebate. The reason for this is that with a 9 percent contract the member receives the inflation adjustment in his weekly paycheck rather than through a rebate in the next year. A dollar in the present is worth more than one in the future. This is particularly true in an inflationary environment.

In addition, the previous wage increase often serves as the basis for future negotiations. A smaller percentage increase not only lowers the range of future percentage increases but also makes the wage base for future considerations smaller.

There would seem to be an incentive to ignore the real wage insurance from the standpoint of both present and future returns. This suggests that many of the workers complying with the guidelines will be those unable to achieve increases of over 7 percent or the anticipated rate of inflation. The result will be windfall returns to a large number of workers who have not lowered their wage demands. It is also quite possible that any slowing in the rate of wage increases will be offset by the demand pull inflation factor created by the rebates.

Real wage insurance does not directly reduce inflation. Rather it is designed as an enhancement to wage and price controls. The feasibility of real wage insurance should be judged not only on its own merits but also on the effectiveness of the wage and price controls. These considerations make the impact of the real wage insurance program extremely dubious.

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Notes on Foreign Policy, Armies and Money

ERNEST VAN DEN HAAG

Our government is often accused of not having the military muscle needed for its global foreign policy needs. We are told that the American people are not willing to pay what it takes to do the job. Perhaps. However, we do deploy troops where we shouldn't, and we do defray costs that we needn't pay. We waste much of our available strength. There are historical explanations for this, but they do not justify the continuation of what has become sheer irrationality – which we can no longer afford. A rational allocation of our military means would permit us to stop carrying the burdens that others are now able to shoulder. They will find it in their interest to do so when we stop volunteering. An immense strengthening of the free world would follow without added financial or military costs, and with only minor political risks. Consider the most obvious cases first.

Rearmament of Japan

After defeating Japan we encouraged a new constitution including an article outlawing rearmament. At the time it seemed a good idea. It has not proved to be one. Of course, Japan needs military protection against Soviet threats. We have continued to volunteer this military protection while Japan has become an economic giant. Our manpower, our weapons, and our money are used. The cost is great. Yet the Japanese could well protect themselves by spending between three and five percent of their national income for armament. They can well afford to do so. And we cannot afford to protect them forever. There is no reason whatever that we should try. If Japan re-armed:

1. We would save a very considerable amount of manpower, weapons, and costs now allocated to Japan.
2. The Soviet Union would have to deploy more of its military might in the Far East. This would diminish the Soviet threat to Europe. Further, since China would no longer be the only military power in the Far East, Japanese rearmament would diminish the Soviet threat to China.

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Would the Japanese be willing to rearm? Certainly not, as long as we are making it unnecessary to do so. But what would happen if we announced a phased withdrawal over, say, five years? The Japanese would waste a year or two debating the issue. Each political faction would try to use it for its own ends. But, seeing that they would otherwise remain undefended, the Japanese would ultimately arm themselves. We should not be deterred by Japanese protestations to the contrary. Such professions may be politically unavoidable. But Japan will rearm if no one else protects it. In the history of the world no nation threatened by armed neighbors has voluntarily remained disarmed. After reasonable diplomatic preparation, to last no more than six months, I propose we announce our phased withdrawal and act upon it.

Some of the Japanese armament would at first have to be imported from the U.S. This is no problem in view of the huge Japanese trade surplus. In time (perhaps within three to five years) Japan would create its own armament industry, as it has created its own automobile and electronics industries. Japan may continue to rely on our aircraft industry for an indefinite time, but this will depend on circumstances that are hard to predict.

There are always political risks – both domestic and external – when a nation rearms and becomes a world power as Japan will become. I judge these risks to be far less in the present and in the foreseeable future than the risk involved in a disarmed Japan ineffectually protected by an over-extended U.S. military budget.

Modernization of South Korean Forces

Unlike Japan, South Korea has an army which ought to be sufficient for protection from the main threat besetting it: North Korea which has made no secret of its aggressive desires. But, despite the fact that South Korea is far more populous, prosperous, and industrialized (it will rival Japan in prosperity within the next ten years) than North Korea, South Korean forces do not suffice at present to deter or defeat an attack from North Korea. The fault is ours. After defeating the last attack from North Korea (which occurred because we neither declared our unequivocal intention to protect South Korea nor enabled it to do so by itself), we left a considerable number of forces in South Korea and, in effect, secured its defense. There-

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fore, South Korea had little incentive to do so by itself. Under the circumstances, South Korea has done more than might be expected – but not enough to withstand a North Korean onslaught without our help. North Korea has been armed to the teeth by the Soviet Union. However, South Korea is quite capable of defeating and, therefore, deterring North Korea. South Korea would be willing to enable itself to do so if (a) we withdraw our forces (a five-year period seems reasonable here, too) and (b) we modernize South Korean armament over that period and help create sufficient air and anti-tank forces. This can be done by extending some credit; South Korea does not need gifts. In time, South Korea too will create its own armament industry, though it will have to continue to rely on the U.S. to supply it with aircraft and some other items that no small power can efficiently produce for itself. But South Korea is perfectly capable both of buying and using the materials. There is no need to keep American forces stationed in South Korea. The main effect they have is to prevent effective self-defense by South Korea.

In an attack of sanity, President Carter recently proposed withdrawing our forces from South Korea and modernizing its military forces. At least according to my reading of the newspapers he did. If so, President Carter was right, and the generals who opposed him were wrong. Possibly though, Carter proposed withdrawal without sufficiently aiding local rearmament – in which case the dissenting General Singlaub may have been right. (Carter sometimes is reasonable in foreign policies, sometimes influenced by some of the people he named to high office.) The publicly available knowledge is not sufficient to decide what the true meaning of Carter's South Korean proposal was. But available knowledge is sufficient to deduce that there is no reason that South Korea should not be able to defend itself against North Korea if necessary, provided we make it clear that this task is left to its armed forces – and provided that we enable these armed forces to carry out their task. Keeping our forces there indefinitely is costly, ineffective, and unnecessary.

U.S. Aid to China

We are not at present stationing forces in China or helping it in any way. Unlike Japan, a democracy, or South Korea,

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an anti-commmunist authoritarian regime,[1] China is a communist totalitarian dictatorship, in principle hostile to us. But we share a foe with China: the Soviet Union, another and more powerful communist totalitarian regime. The Sino-Soviet hostility has led the Soviet Union to deploy a quarter of its military forces to the Chinese frontier, thus greatly reducing the potential Soviet threat to Europe. Nonetheless, the Soviet Union has enough military resources to continue seriously to threaten western Europe. Actually, its threat to Europe – and to us – is now increasing.

The Soviet armies at China's frontiers could easily overwhelm China's armed forces which, however capable, lack modern arms. If the Soviet Union does not do what it could do – attack and neutralize China – the reasons are not local-military but global-political. A conflict with China would not necessarily be decided locally. The global risks are too great for the Soviet government. Still, it is clearly in our interest to enhance the defense capability of the Chinese. This would not only reduce the Soviet threat against China, but also reduce the threat to western Europe and against us. Yet it would be both impossible and foolish for us to try to modernize China's armed forces in general, far too costly, difficult and risky. This is a domestic task. But there are two things we can do easily, at low cost, with high returns and no risks.

1. The Soviet Union has total air superiority over China. If the Chinese were equipped with ground-to-air missiles, that superiority would be greatly reduced, and it would become far more costly for the Soviet Union to maintain it even to a reduced degree. It is easy to help the Chinese get ground-to-air missiles and the cost is negligible. The return for us would be quite high.
2. Soviet tank superiority is immense. Although we cannot equip the Chinese with tanks, we can help them acquire anti-tank weapons, which are comparatively cheap and would greatly reduce the degree and the importance of Soviet tank superiority, as well as make it more costly for the Soviet Union to maintain it to any degree.[2]

1. South Korea is about as democratic as Mexico, Yugoslavia, or Zambia, and certainly far more economically efficient than any of these.

2. At present we produce far too few of these anti-tank weapons for our own need and for the needs of our European allies; our rate of

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Our help to the Chinese — direct or indirect — would not decrease the overwhelming Soviet quantitative and qualitative superiority in artillery and in a host of modern weapons. Still, our help to the Chinese would greatly reduce the Soviet threat to Europe, while helping the Chinese in some quite important respects. Note here that only fools — of which there are plenty — think that the task has been done by diplomatic recognition of the People's Republic of China, so as to obtain the title of Ambassador for our man in Peking. These "diplomatic" issues are about as relevant to foreign policy as Peking duck, or the United Nations — they have a purely symbolic meaning. The matters I have just discussed are of far more importance to China, to Europe, and to us; they will make a difference.[3]

Europeanization of Europe's Defense

We deploy much of our Navy, Army, and Air Force in Europe at considerable cost. Yet the free countries of Europe which our troops help protect against the Soviet Union, taken together, have a greater and far more prosperous and industrially advanced population than the Soviet Union does. Why can't they defend themselves? Why do countries like West Germany, France, or England need American troops? They don't. They are quite able to support armies, navies, and air forces sufficient to deter any Soviet attack. The trouble is that they are accustomed to getting protection from us nearly free of charge. They are hard to wean. And the weaning process involves dangers which is why it is constantly postponed.

After having played a major role in defeating Nazi Germany, the Russians, whom we had supported in the second world war,

production is far too low. Supplying the Chinese may encourage the investment needed to increase our production rates during the fairly long period over which they should be increased.

3. We may have acted clumsily in abrogating our treaties with Taiwan and, generally, treating shabbily an old and valuable friend. President Carter's diplomacy is not known for elegance. However, it does not seem that Taiwan is in any actual danger of being invaded now (the communists have other fish to fry), or that Taiwan has lost any support actually available if it were threatened. A *modus vivendi* on the Finnish model may be worked out, in which Taiwan would be an autonomous (domestically and in trade relations) part of China. There is no need for bloodshed. All the Communist Chinese will want to be sure of at present is that Taiwan will not ally itself with the Soviet Union.

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threatened the devastated democratic Europe which, with the help of the Marshall Plan, tried to reconstitute itself. Our military assistance to western Europe was vital in stopping the Soviet threat. (We could have stopped it earlier without victimizing East Germany, much of the Baltic and most of the Balkan nations. But we didn't.) The Europeans could not, then, have stopped the Soviet Union without our help. Finally, we helped found NATO to permanently defend Europe. NATO bound our European allies and us together in defense against the Soviet Union. NATO still does. NATO also entrusted nuclear defense to us.[4]

As the European nations became stronger (for instance, when West Germany and France became major economic powers), they never quite shouldered an appropriate share of their own defense. They clearly won't until and unless they have to. Yet here it would not do simply to withdraw. The democratic European governments have great political difficulties: both France and Italy have barely escaped governments with communist participation. England is economically weak, politically irresolute. Germany still suffers from an understandable revulsion against "militarism." Nonetheless, under the leadership of the outgoing NATO commander, General Haig, Europe has promised to increase its defense expenditure and to better coordinate its forces and make them more efficient. This is not the moment to withdraw American forces stationed in Europe. Yet, in the end, the defense of Europe must be Europeanized, and we must tell the European governments that ultimately they will have to rely on themselves, at least in respect to conventional warfare, even if we will help during a period of transition.

Are my proposals consistent with detente? If it still means anything, detente means that the Soviet Union and the U.S. will try to avoid direct armed conflicts and that they will reduce or at least control the mutual threat level, particularly the nuclear threat level. This is in their common interest and should be encouraged. But, as the Russians have reminded us in Africa

4. For various reasons the wisdom of that policy is doubtful. The alternatives are not appetizing either. An evaluation of our policy alternatives involves complicated calculations, which I will forego here, and assume American decision-making on nuclear defense as a fact. For a while, at least, this assumption will remain correct.

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and elsewhere, detente does not prevent the Soviet Union from encouraging wars by its allies against ours; nor domestic upheavals in its favor; nor support of a pro-Soviet party in a civil war; nor proxy wars; nor conventional armaments delivered to our enemies, even when they are in our neighborhood, as Cuba is; nor arms supplies to allies. There is no reason that detente should lead us to unilaterally cease or not undertake such activities where they suit us. Surely we have no reason to grant the Soviet Union a veto over the armament of China.

Isolationism: Shirking World Defense?

The proposal to withdraw troops from Japan and Korea, and ultimately from Europe, may strike some as isolationist. It is not. Isolationism is a feeling – hardly a theory – that we can go it alone, that the threats to our security do not warrant alliances with others, or that the threats to their security would not impair ours, or, finally, that such threats would diminish if we gave up alliances. I do not believe that any of this is true. We are no longer protected by oceans that make entangling alliances unnecessary and dangerous. But to oppose isolationism is not the same as to volunteer to shoulder the burden of world defense or to protect nations such as Japan or Korea that are quite capable of effectively protecting themselves. We must help where needed, but we must not help when we thereby reduce the total effective defense force against the Soviet Union. Yet this is the effect of our trying to protect Japan and Korea and discouraging them from doing what they are able and ultimately willing to do. It is the excessive eagerness of some of our policymakers to support and protect those who could well do for themselves that calls forth isolationism as a reaction.

Restriction of U.S. Arms Sales

The Carter Administration has proclaimed its intention of limiting American arms sales. This intention is silly. Anyone who can buy arms from us can buy arms from other suppliers. The quality will only be marginally inferior. No international agreement will make it impossible to buy arms for anyone seriously intent on doing so. Restricting arms sales will cost us influence. Above all, it will make our arms production less efficient. We are already much behind the Soviet Union in the quantity of much conventional armament, such as rifles, tanks,

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and artillery. Worse, our armament industry is so small a segment of our total industry that it cannot attract first-rate talent which has much greater career possibilities in non-armament industries. One does not become president of General Motors by designing tanks. The main business is passenger cars, and careers are made by designing them. In contrast, in the Soviet Union the best career opportunities are certainly not in consumer goods but in the armament industries. If we do not wish to fall behind further we must open more and better careers in armament for talent, such as now exist only in the aerospace industry. We can do so only if we expand the armament industry. And that can be done only by selling arms, not only to our armed forces but also to all those who are not hostile to us. Only in this way is the market increased enough so that producers can compete with other industries for first-rate talent. And first-rate talent is needed now to compete with the first-rate conventional hardware produced by the Soviet Union.

However, we have fallen into the habit of giving away arms and of financially supporting practically every power which is not openly hostile to us and is willing to accept our money. (Few refuse.) Thus, we are supporting Syria — even though Syria does its best to torpedo Mid-Eastern peace. We support numerous countries and regimes out of habit, it seems, or because our support mission personnel would lose their jobs if we stopped. We even support Vietnam through international agencies which use our money. It is not in our interest to do so. It is quite doubtful whether it is in our interest to stay in international agencies such as the World Bank. All it does for us is keep Mr. McNamara out of domestic mischief. But could that mischief be worse than the international mischief he does? We left the I.L.O. under George Meany's pressure. The only noticeable effects are that the I.L.O. behaves better than before (to lure us — to be precise, our money — back) and that we save some money. It might help to leave some more international mischief-making agencies. We certainly should reduce our financial support to all of them. Thus, I can see no serious reason to continue our membership in UNESCO. Our withdrawal from it can do no harm and would serve as an appropriate warning to the U.N.

(The arguments offered for supporting nearly everybody are that, although the country or organization we help is not help-

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ful to us, it would become hostile if we didn't continue support or that the Soviet Union would supplant us.) In most cases this is a risk well worth taking. The drain on the Soviet treasury – which can afford it less than we can – would be an advantage to us. By all means let them support Cuba and Vietnam and Mozambique and Angola and Ethiopia. If they purchase as little with their money as we do with ours, it will be no advantage to them. We should not support any country unless a clear and unequivocal case can be made showing what specific returns we can hope to get, with what degree of likelihood, within what period, and what damages we can expect if we withhold support. Supporting the military forces of Turkey, say, may make sense. But supporting Syria in any way? Or Haiti? Or any of the South American republics?

Two further remarks.

Our military does suffer from a "mother knows best" complex. We should not let them get away with it. One of the reasons our side did badly in Vietnam was that we did not push the South Vietnamese forces into combat until it was too late. We preferred to do it ourselves. We did it better. But they never learned; they hardly got any real combat experience. The South Vietnamese generals, of course, liked to keep their troops in reserve for domestic political purposes. We allowed them to do just that. And South Vietnamese politicians saw no reason to fight as long as we were ready to do it for them. When we finally withdrew, they were no match for the battle-hardened North Vietnamese troops. South Vietnam had arms (better arms and more than North Vietnam) but no combat experience and, therefore, no capable officers corps and no *esprit*. We foreordained its defeat. Haven't we learned anything? Is it so hard to understand that nations must learn to defend themselves before they can be helped by anyone? That our "help" is counterproductive if it merely replaces their effort?

Another reason we still station troops around the globe is that we continue to believe in slogans such as "peace is indivisible," "collective security," and so on. These slogans make some sense in special situations, but not in the present situation, nor in the foreseeable future. "Collective security" simply enables the enemy to select our weakest points, or allies, to attack and then compel a totally unreasonable deployment and expenditure of resources on our part – as in Vietnam. No, peace and war are each quite divisible. There are local wars that,

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if they cannot be avoided, should remain local, fought by local combatants. We should be prepared to suffer an occasional defeat of a friend by a friend of the Soviet Union. We should also try to have an occasional victory of this sort. But, unless such a victory is strategically or politically essential, our support should be commensurate with the importance of the battle; we must learn to lose or win a pawn without each time acting as though the whole chess game is at stake. The powers of the world, their advances and retreats, by violent and nonviolent, domestic and external means, are all certainly linked. But they are not indivisible, nor all equally important.

Our recent conduct in Africa – I am reluctant to call it a policy, for confusion and policy are not the same – suggests some loosening of the hold of the "peace is indivisible" slogan. Surely it would have made no sense to send troops to Ethiopia, or Somalia, or Mozambique. On the other hand, we went, as usual, too far in failing to support sufficiently those willing to fight for themselves and, indirectly, for us.[5] There is a simple lesson: support your local policeman, but don't try to supplant him, and help only where it strengthens, not where it replaces or weakens him. Above all, don't discourage him by taking over, or leading him to believe that you will mobilize the national guard for him.

5. And our policies with respect to Rhodesia and to South Africa are not simply confused or stupid – they are contrary to our interests and to the interests of the black and white populations concerned. They serve but to support future anti-American Idi Amins.

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Treaty Termination Is a Shared Power

BARRY M. GOLDWATER

On December 15, 1978, while the Congress was out of session, President Carter announced that the United States would recognize the People's Republic of China as the sole legal government of China as of January 1, 1979. At the same time, the President also made known, through informal briefings for the media, his unilateral decision to terminate the defense treaty with the Republic of China, claiming authority to act under Article X of that treaty which states that "either Party" [not "either President"] may cancel it after giving one year's notice. Without public announcement, the actual notice of termination of the defense treaty was sent by diplomatic note to the Republic of China on December 23, 1978, to be effective on and as of January 1, 1979.

The President's decisions were shrouded in secrecy and contrary to the purpose of section 26 of the International Security Assistance Act of 1978, a law enacted by Congress just three months preceding his announcement, which specifically called for prior consultation with the Legislative Branch. The House Foreign Affairs Committee, expounding recently on the meaning of the word "consultation" in the War Powers Act, explicitly rejected the notion that to consult means merely to inform: "consultation in this provision means that a decision is pending on a problem and that Members of Congress are being asked by the President for their advice and opinions. . . ."[1] Obviously, the President's one-hour advance notice to the Senate does not qualify as "consultation."

The Reasons for Filing Suit

On December 22, I filed suit in the U.S. District Court for the District of Columbia, with fifteen of my colleagues from both Houses of Congress, challenging the validity of the President's attempted termination of the treaty without any supporting legislative authority. We asked the court to declare the President's action unconstitutional and illegal and to set

1. *House Report 93-287*, 93rd Cong., 1st Sess., 1973, p. 2.

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aside his purported notice to cancel the treaty as having no effect.

It is the premise of our case that in acting alone to interpret the defense treaty and to make a self-serving interpretation of the constitutional allotment of powers among the executive and legislative departments, President Carter has not only usurped powers conferred upon the Congress, but has attempted to exercise a function which the Supreme Court has said is clearly reserved to the Judicial Branch, the power "to say what the law is" (*United States* v. *Nixon*, 418 U.S., 1974, p. 683).

The question is not whether any past precedents justify the President's assertion of independent power, although I believe the weight of historical evidence proves that treaties are normally terminated only with legislative approval. The true question is whether his action represents the original intent of the persons who drafted the Constitution. This is a legal and historical question, and the hard fact is that nothing in the records of the Federal Convention or in the explanations at the State Conventions on ratifying the Constitution confirms in any way the President's sweeping claim of unchecked power. To the contrary, contemporary materials and the text of the Constitution show that the termination of a treaty, involving as it does the sacred honor of the country and serious policy interests, is a decision of such major importance that the Framers required the joint participation of both political departments, the executive and legislative, in making that decision.[2]

If left unchallenged, the President's unilateral action will set a dangerous precedent which would enable him, or a future President, to terminate any defense treaty *at will*.

In fact, the precedent could be used for the Presidential termination of any treaty to which the United States may now be a party or become a party in the future, such as a treaty with Israel. Such unchecked concentration of power is totally inimical to our democratic, representative form of government.

2. These general conclusions and others presented in the article are addressed by me in a more extended study in The Heritage Foundation Critical Issues publication, *China and the Abrogation of Treaties*, 1978. Also, see M. Terry Emerson, "The Legislative Role in Treaty Abrogation," *5 Journal of Legislation*, University of Notre Dame Law School, 1978, p. 46.

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The Intent of the Framers

The Constitution is silent as to how a treaty shall be terminated. It is also silent on how a statute or any other law shall be cancelled. Yet, no one makes the argument that the President alone can repeal a statute. In fact, in The Confiscation Cases, 20 Wall (87 U.S., 1874, pp. 92, 112-13), the Supreme Court expressly said, "No power was ever vested in the President to repeal an act of Congress."

It is my belief that by placing treaties among "the supreme Law of the Land" in Article VI, clause 2, and by requiring in Article II, section 3, that the President "shall take care that the Laws be faithfully executed," the Framers meant and expected, without saying more, that the President would carry out a treaty in good faith, which is exactly the opposite of giving him an implied authority to cancel any treaty at will.

Moreover, it is well-known that the Framers were concerned with restoring dependability to the treaties made by the United States. They were anxious to gain the respect and confidence of foreign nations by keeping our treaty commitments.

For example, in the preface to his notes on debates in the Constitutional Convention, James Madison singles out the lack of obedience to treaties as one of the conditions which the Federal Constitution was intended to correct. Our unfaithfulness to treaties, Madison wrote, is among "the defects, the deformities, the diseases and the ominous prospects for which the Convention were to provide a remedy, and which ought never to be overlooked in expounding and appreciating the Constitutional Charter the remedy that was provided."[3]

Would the Framers, who regarded violation of "the sacred faith of treaties" as "wicked" and "dishonorable" and contrary to the best interests of the country in acquiring respect in the community of nations, have contradicted these purposes by making it as easy under the new Constitution for a single officer of the government to repeal a treaty as it had been for individual states to nullify a treaty under the Articles?

The Separation of Powers

In his landmark work on the subject, Professor Arthur Bestor

3. *The Records of the Federal Convention of 1787*, M. Farrand, ed., 1937, pp. 548-49.

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persuasively shows that the doctrine of separation of powers is "prescribed as explicitly for the conduct of foreign relations as for the handling of domestic matters" and explains:

> The purpose and effect of any such arrangement is to require the joint participation – the cooperation and concurrence – of the several branches in the making and carrying out of any genuinely critical decision.[4]

Justice Joseph Story, one of the foremost scholars to sit on the Supreme Court, confirms this statement. Story writes, in connection with the decision of the Framers to allot the treaty authority jointly to the President and the Senate, "this joint possession of the power affords a greater security for its just exercise, than the separate possession of it by either" and that it "is too much to expect, that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively upon treaties."[5]

This is what the Framers had in mind in establishing a system of checks and balances. They sought to protect the security of the people by implementing checks by the President and the Senate upon each other in the exercise of the full treaty power. By providing for the added deliberation and attention to the subject which would be required by vesting the full treaty power jointly with the President and at least one branch of the legislature, the security of the people would be far better protected than it would be if the power were conferred upon a single officer. The security which follows caution and added deliberation would be lost if no check had been put on the unmaking of a treaty.

Early Authorities Support Legislative Role

The early authorities, including some among the Founding Fathers, saw the repeal of a treaty in the same light as they saw the repeal of a statute. It would have been strange upon their ears to hear anyone argue that the President, by his sole authority, could terminate whatever treaty he wished, whenever he wished. James Madison, for one, believed that "the

4. A. Bestor, *Separation of Powers in the Domain of Foreign Affairs: the Intent of the Constitution Historically Examined*, 5 Seton Hall L. Rev., 1974, pp. 531-535.

5. J. Story, *Commentaries on the Constitution*, 1833, pp. 359-60.

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same authority, precisely," would be "exercised in annulling as in making a treaty."[6] Thomas Jefferson, when he was Washington's first Secretary of State, wrote a report in which he reasoned that the same authority who possessed the power of making treaties, consequently had the power of declaring them dissolved.[7] And, when he was Vice President, Jefferson compiled the first manual of rules of the Senate, in which he wrote, "Treaties being declared equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded."[8]

Further evidence that the Framers linked the repeal of treaties to the repeal of statutes appears in John Jay's brief analogy in the *Federalist* No. 64:

> They who make laws may, without doubt, amend or repeal them, and it will not be disputed that they who make treaties may alter or cancel them. . . .

Justice Iredell, who served on the first Supreme Court, shared the views of Madison and Jefferson as to the legislative role in terminating treaties. In an opinion accompanying *Ware* v. *Hylton* (3 U.S. (3 Dallas), 1796, pp. 199, 260-61), he twice stated his belief that Congress *alone* has "authority under our Government" of declaring a treaty terminated, even in circumstances where the other country has first violated it.

In 1917, Professor Edward Corwin, recognized as one of the leading authorities on the Constitution in this or any other century and generally a defender of broad Presidential power, wrote:

> [A]ll in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the Executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone.[9]

6. *Letters and other Writings of James Madison*, Vol. I, 1865, p. 524.
7. *The Writings of Thomas Jefferson*, Ford, ed., Vol. VI, 1895, p. 41.
8. *Senate Manual, S. Doc. No. 93-1*, 93rd Cong., 1st Sess., 1973, p. 560.
9. E. Corwin, *The President's Control of Foreign Relations*, 1917, p. 115.

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Relevant Precedents

History confirms the denial of an independent treaty termination power of the President, although there are minor exceptions explainable under principles of ordinary contract law. In fact, the first treaties ever terminated by the Republic were done so by Act of Congress in 1798. These were the three treaties of alliance with France, which were cancelled by Congress after repeated French attacks on American shipping.

The second instance of termination by the United States was in 1846, fifty-seven years after the Constitution was approved. President Polk *asked* Congress for authority to pull out of a treaty with Britain yielding joint rights to the Oregon Territory. A joint resolution was enacted, giving him authority to provide notice of withdrawal, as was authorized in the treaty. This is the first known instance of termination by notice. As such, it is impressive historical evidence of what procedure is required to terminate a treaty. Both the early treaty with Britain and the 1954 treaty with Taiwan included provisions authorizing withdrawal after notice given to the other party. Yet, President Polk interpreted that provision to mean that he had to have legislative authority in order to act.

In all, I have identified forty-nine instances in which treaties or provisions thereof have been terminated or suspended by the United States. Forty-one were terminated with the clear authorization or ratification of an Act of Congress, Joint Resolution or Senate Resolution. Four others were superseded by a later statute or treaty in conflict with the earlier treaty. The normal practice of treaty termination in the United States has been joint action by the President and Senate or Congress.

Only four treaties have been cancelled by the President entirely independent of any supporting legislative authority. The President may not have acted constitutionally even in these isolated cases, which are abnormal. But, if there is any difference in the two groups of cancelled treaties, a logical explanation may be found in contract law.

For, in each of the situations of independent Presidential action, the other party had first violated the treaty, it was impossible to perform the treaty, or there was a fundamental change of conditions essential to the operation of the treaty and originally assumed as the basis for it. In none of these incidents was the reason for terminating or withdrawing from a treaty the result of a breach or other action on our part

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inconsistent with the purposes of the treaty concerned.

In these circumstances, the incidents fall within the rules of early contract laws by which a party is released from an agreement. All the first writers on the law of nations, such as Grotius and Vattel, whose works were consulted by the Founding Fathers, agreed that there is no difference between the rules of law applied to public treaties and those applied to private contracts.

Thus, the Framers may well have silently assumed the President could determine a treaty ended if it should be violated by the other country, if performance became impossible, or if there was a fundamental change of conditions, not of our own making. In their own experience, it was an implied condition of a contract or treaty that the obligations of the parties ended or were suspended upon the happening of one of these events. Without conceding the legality of occasions upon which the President had so acted unilaterally, these principles of contract law may explain independent Presidential action in exceptional circumstances, none of which applies to the President's action regarding the Republic of China defense treaty.

The State Department's Memorandum

The State Department has released a memorandum by Herbert Hansell, the Legal Adviser, dated December 15, the same day as President Carter's public China announcement, claiming that the President could do what he did. That paper, actually a legal argument, contains highly selective quotes from authorities (no quotes cited in this article appear in the memo) and sets forth a dubious list of alleged precedents for unilateral Presidential action. Although the Legal Advisor claims twelve precedents for independent treaty termination, he admits on the face of the brief that two were never terminated (notice was withdrawn) and two more were instances in which the other nations first denounced the treaties. This seriously weakens the relevance of the precedents.

Of the few remaining "precedents," all can be explained by the principles of contract law discussed above. None of these exceptions has any application to the Republic of China defense treaty and, in fact, none of the twelve incidents involves a defense treaty.

In any event, past practice offers no ground for asserting

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an independent Presidential power. The last precedent is no better than the first. As the Supreme Court said in *Powell* v. *McCormack* (395 U.S., 1969, pp. 486, 546), "That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date." And, in many of the twelve incidents, the President acted in secrecy. Congress could hardly challenge what it was not told about.

It has been suggested that since the President alone has the power to remove executive officers appointed by and with the advice and consent of the Senate, he also has power to remove treaties. The two cases are completely dissimilar. The ability to remove officers clearly under his direction aids in the efficient performance of the President's duties. The removal of treaties violates the President's constitutional duty to see "that the laws be faithfully executed." Obviously the President's relation with subordinate officers cannot be equated to his relation with sovereign authorities of other nations. The courts have also sharply restricted the removal power to purely executive officers, holding that the President cannot remove officers who exercise quasi-legislative or judicial functions in Humphrey's Executor (295 U.S., 1935, p. 602). As the treaty power has long been found to partake more of the legislative than executive character, the analogy with the removal power does not hold up.

Termination of Treaty by Notice

By admitting the defense treaty "is technically still in effect" in 1979, until the notice period expires, the Administration rejects any notion that the treaty lapsed upon derecognition of the Republic of China. By this and by asking Congress for legislation which would permit the other "current agreements and treaties in effect with the government on Taiwan to remain in force," the Administration admits the authorities on Taiwan are a *de facto* government in control of the territory of Taiwan and that we can have dealings with them. The recognition power is not at issue. The only question, as framed by the President himself, is whether the Senate has consented to his action in the case of this particular treaty by having approved a provision which allows termination by notice. The answer is clear that no such authority can be inferred from the treaty or its legislative history.

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First, it should be noted that the provision does not authorize termination after notice by "the President" or "Executive" of either country. The treaty only uses the term "Party." This obviously means the sovereign authority of the state giving notice. In determining who represents the sovereign authority, it is necessary to consult the constitutional processes of the state in order to find what power makes the decision to give notice and, after that decision has been made, what power shall actually transmit the notice. Under our Constitution, it is clear that whoever communicates notice, the power of making the initial decision which must precede that notice belongs jointly to the President and Senate or Congress.

Although it is generally accepted that the President is "the sole organ of the nation in its external relations, and its sole representative with foreign nations,"[10] this proves no more than that it is the President who shall act as the official representative of the nation in communicating with the foreign government. His capacity as a diplomatic organ in no way need imply a power of making the critical policy decision required before delivery of the notice. The President may have broad power in the field of foreign affairs, but he is not a dictator. He must obey the Constitution.

The State Department would attribute a meaning to the Republic of China defense treaty of which it never informed the Senate – that termination was reserved to the President alone. It would put the same meaning upon dozens of other major treaties which contain similar provisions using the term "Party." For example, the North Atlantic Treaty Alliance and our security pacts with South Korea, Japan and the Philippines each include articles allowing either Party to withdraw after one year's notice. The Nuclear Test Ban Treaty, the Statute of the International Atomic Energy Agency, the Nuclear Non-proliferation Treaty, the Biological Weapons Convention, the Universal Copyright Convention, and the Outer Space Treaty, among others, each provide by their own terms for termination after one year's notice or less to the other parties. The consequences of accepting the State Department's interpretation of these provisions is far-reaching indeed.

10. *U.S.* v. *Curtiss-Wright Export Corp.*, 229 U.S., 1936, pp. 304, 319-320.

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No matter that the Senate was not clearly informed of what the language meant when it gave its advice and consent to ratifying these agreements. No matter that the Executive may have had a different understanding than the Senate and kept silent about it.

When it suddenly suits the needs of expediency for its policy of the moment, the State Department unveils a doctrine which it has previously hidden from public discussion. After having exploited the use of executive agreements to the point at which the President can make virtually any treaty he wants by calling it a mere executive agreement, now the State Department is ready to usurp the power of unmaking treaties as well. Events in the year ahead may well determine whether the Executive succeeds or fails in this historic power grab.

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Normal Relations With China: Good Law, Good Policy

EDWARD M. KENNEDY

For almost three decades, until the end of 1978, American foreign policy was plagued by an anomaly. Alone among the major nations of the world, the United States had failed to recognize officially a basic fact of international life – that the People's Republic of China effectively governs China's territory and one billion people. But last December 15, President Carter courageously decided to establish diplomatic relations with the People's Republic as of January 1, 1979, and to exchange ambassadors on March 1. He thereby successfully concluded the normalization process begun by President Nixon and Chairman Mao in the 1972 Shanghai Communique.

At the same time, the President notified Peking's rival, the Republic of China on the island of Taiwan, that the United States would terminate diplomatic relations with it. (The two competing governments have long held that only one of them can be recognized as the government of China and that Taiwan is a part of China.) The President also announced that the United States would give notice on January 1 – as it did – of its intention to terminate one year hence the 1954 Mutual Defense Treaty with the government on Taiwan under Article 10 of the Treaty. The United States formally declared, however, its continued interest in the peaceful resolution of the Taiwan issue and the continuation of commercial, cultural and other non-governmental relationships with the people of Taiwan. Moreover, the Administration provided for Taiwan's future ability to defend itself by making clear that its authorities could continue to purchase selected defensive weapons in this country.

Despite these measures to safeguard the island, some critics have denounced President Carter's normalization decision as a "stab in the back" of Taiwan. Senator Barry Goldwater (R.-Ariz.) and others are now challenging, in the courts as well as in Congress, the Presidential notice terminating the defense treaty.[1] They incorrectly argue that the Executive lacks legal

1. See Civil Action No. 78-242, U.S. District Court for the District of Columbia, December 22, 1978.

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authority to terminate the treaty, according to its own terms, without the approval of two-thirds of the Senate or a majority of each House of Congress. This challenge threatens to side-track one of the most important foreign policy initiatives of recent history into domestic constitutional controversy. I am confident that this effort will fail, for law, practice and policy clearly support the President's notice of termination in these circumstances. And it is in no one's interest to throw our future relations with Taiwan into legal limbo, instead of assuring the continuity of our relations with the people of that island.

The President might have avoided the constitutional question by simply exercising his unchallenged prerogative to recognize the People's Republic as the government of China and to establish diplomatic relations with it. As demonstrated by the experience of other nations which have switched recognition from Taipei to Peking, this would have led to the lapse of the 1954 defense treaty and of the other bilateral agreements between Washington and Taipei with the Congress then providing for continuing non-governmental relations with Taiwan. By reiterating its previous declarations that the defense treaty was a nullity, Peking could have left no doubt that the treaty no longer had legal effect, as a consequence of the position of China's new government rather than through a termination decision by Washington.

The President chose, however, to end the defense treaty according to its one-year termination provision and to state that other agreements with the Republic of China on Taiwan endure until replaced by new arrangements with the authorities on the island. Whatever the merits of the latter claim under international law and practice, the President plainly has the independent authority to terminate a treaty according to its notice provision.

Although the Constitution requires the President to obtain the advice and consent of the Senate prior to concluding a treaty, it sets forth no such requirement for terminating a treaty. Of course, in approving the 1954 defense treaty with the Republic of China, the Senate might have required the President to obtain the approval of the Senate or Congress prior to terminating the treaty, but it chose not to do so. The treaty simply provides for termination with one year's notice; in the light of twentieth-century practice, this plainly confers upon the President the power to terminate the treaty at his

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own sole discretion.

Presidential Precedents

Presidents have given notice of treaty termination independent of the Senate or Congress on fourteen separate occasions in our nation's history – and eleven of these instances have occurred in the past fifty years.

Especially in the nineteenth century, the President occasionally terminated a treaty at the direction of or with the prior or subsequent consent of the Senate or the Congress. But this fact in no way negates the President's power to act independently. Indeed, in modern practice, this Presidential exercise of independent authority outnumbers the total of all other methods utilized.

Since 1920, only Presidents Hoover and Nixon have not terminated treaties pursuant to a notice provision. All other modern Presidents, from Wilson through Carter, have exerted their valid constitutional authority by terminating treaties without formal advice and consent. And their actions have been accepted by the Congress and unchallenged in the courts.

No American judicial decisions directly address the question of the President's right, pursuant to a notice provision, to terminate a treaty without formal congressional approval. Yet, some court cases dealing with treaty termination assume independent Presidential power to terminate. In *Charlton* v. *Kelly*, for example, the Supreme Court pointed out that it is for the President to determine whether a treaty violation has occurred and, if so, whether termination is warranted.[2] The issue of treaty termination is often intimately related to the question of recognition of a foreign sovereign and establishment of diplomatic relations, as indeed it is in the case of China, and both questions have been regarded as requiring political judgments that are within the President's authority.[3]

2. 229 U.S., 1913, p. 447. See also *Terlinden* v. *Ames*, 184 U.S., 1902, p. 270.

3. For the President's independent power to recognize and establish diplomatic relations, see, *U.S.* v. *Belmont*, 301 U.S., 1937, pp. 324, 330. On the question of the courts and treaty termination, Professor Randall Nelson concludes, "Diplomatic practice coupled with judicial opinion demonstrates that the President, as the chief organ of foreign relations, has the primary responsibility with respect to the termination of treaties. He may perform this function alone or in conjunction

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The overwhelming number of contemporary scholars of international and constitutional law who have considered this question agree that the President has the clear prerogative to give notice of termination, pursuant to a notice provision in a treaty, without the approval of the Senate or the Congress.[4] And the prestigious American Law Institute takes the same position.[5]

Sound historical and policy reasons sustain this conclusion. The Framers of our Constitution feared "entangling alliances" and therefore required the President to obtain the advice and consent of two-thirds of the Senate prior to concluding a treaty. The Framers manifested no similar concern with the President's exercise of discretion to disentangle the nation from alliances, and the Constitution thus imposed no requirement of Senate participation in treaty termination.

In the absence of specific constitutional, treaty or statutory language restraining the President, it has been understood that he is responsible for determining how to deal with treaties once concluded. For example, in referring to the 1793 Neutrality Proclamation by President Washington and its relation to American treaties with France, Alexander Hamilton wrote that "treaties can only be made by the president and senate jointly; but their activity may be continued or suspended by the president alone."[6] Hamilton, incidentally, made this

with the Congress or the Senate." Nelson, "The Termination of Treaties and Executive Agreements, etc.," 42 *Minn. L. Rev.*, 1958, pp. 879, 906. In *Van Der Weyde* v. *Ocean Transport Co. Ltd.*, 297 U.S., 1936, p. 114, the Supreme Court noted that it was not passing on the question of the President's independent authority to terminate the treaty.

4. See Cohen, "Normalizing Relations, etc.," 64 *A.B.A.J.*, 1978, pp. 940, 941; Tribe, *American Constitutional Law*, 1978, pp. 164-165; Henkin, *Foreign Affairs and the Constitution*, 1972, p. 136; Hyde, *International Law Chiefly as Interpreted and Applied by the United States*, 2nd rev. ed., Vol. II, 1945, pp. 1519-20; McDougal and Lans, "Treaties and Congressional-Executive or Presidential Agreements, etc.," 54 *Yale Law Journal*, 1945, pp. 181, 336; McClure, *International Executive Agreements*, 1941, pp. 16, 306; Willoughby, *The Constitutional Law of the United States*, 2nd ed., Vol. I, 1929, p. 585; Reeves, "The Jones Act and the Denunciation of Treaties," 15 *A.J.I.L.*, pp. 33, 34, 38; Lowenfeld, Letter to *The New York Times*, May 28, 1978.

5. See *Restatement of the Law (Second), Foreign Relations of the United States*, 1965, Sections 155 and 163.

6. *Letters of Pacificus and Helvidius on the Proclamation of Neutrality of 1793*, 1845, p. 13.

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statement with specific reference to a situation almost identical to that involved in normalization with China.

Senator Goldwater's Challenge

Despite the fact that the President's independent power to terminate treaties is today well-established, supported decisively by modern practice and accepted by the Congress and most scholars, Senator Goldwater now seeks to challenge it. Because the President has occasionally, especially in the nineteenth century, terminated a treaty with prior or subsequent Senate or congressional participation, he argues that the President must always obtain legislative approval except "that history indicates the President may, if Congress raised no objection, determine whether or not a treaty (1) has been superseded by a later law or treaty inconsistent with or clearly intended to revise an earlier one, (2) has already been abrogated because of its violation by the other party, or (3) cannot be carried out because conditions essential to its continued effectiveness no longer exist and the change is not the result of our own action."[7] He thus seeks to dismiss the many instances of independent Presidential treaty termination as "exceptions" to the supposed general rule requiring legislative approval.

Senator Goldwater's analysis is seriously flawed, however. When carefully examined, the instances of independent Presidential termination do not fall into the three categories of so-called "exceptions" that he suggests. Rather, they demonstrate that the President has been free to terminate treaties in a variety of situations in which the common denominator is that in each case it was no longer wise for the United States to adhere to the treaty in question. Indeed, contrary to Senator Goldwater's assertion, most instances of independent Presidential termination have occurred in circumstances in which there was no inconsistent law or treaty superseding the treaty in question, in which there was no violation by the other party and in which there was no impossibility of performing treaty obligations.

For example, Senator Goldwater claims that President Coolidge independently terminated our 1925 treaty with

7. Goldwater, *China and the Abrogation of Treaties* (The Heritage Foundation, 1978) p. 27.

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Mexico on the prevention of smuggling because it was "impossible to implement the Convention." Yet, there is no factual basis for this contention. The record reveals that the Secretary of State thought it inadvisable to retain the treaty so long as Mexico failed to conclude an arrangement safeguarding American commerce against discrimination.[8]

Similarly, Senator Goldwater seeks to portray President Franklin D. Roosevelt's 1939 termination of the 1911 commercial treaty with Japan as being compelled by our obligations under the 1922 Nine-Power Agreement. But nothing in the later agreement required the United States to terminate in the purely commercial treaty.

In fact, not only is Senator Goldwater's interpretation flawed by its misconstruction of the precedents, but it is also logically flawed as well. What is the source of the President's power to make "exceptions" unless it derives from his authority to terminate a treaty without legislative approval? And why cannot the President make other "exceptions"? Moreover, since the fourteen cases of independent Presidential termination that supposedly constitute "exceptions" outnumber the total of all other methods utilized in modern practice, they are strange "exceptions" indeed!

The treaty power is not the only one in which the Constitution requires the approval of the Senate before the President takes certain action but does not require similar approval when he undoes the action. For example, the Senate's consent is necessary for the reappointment of Cabinet officers, but not for their removal.[9]

In seeking to bolster his position, Senator Goldwater relies on a quotation from Thomas Jefferson and another from James Madison — uttered before the nation had any experience with treaty termination — to the effect that legislative consent is legally required.[10] Yet, in the same discussion Jefferson conceded that there were disagreements about the treaty power, and in 1815 Madison became the first President to terminate a treaty without legislative consent.[11] Subsequent Presidential

8. U.S. Archives, 74 D, p. 481 (Box 16678).
9. *Myers* v. *U.S.*, 272 U.S., 1926, p. 52. *Humphrey's Executor* v. *U.S.*, 295 U.S., 1935, p. 602.
10. See Goldwater, *supra note* 7, p. 13.
11. See McDougal and Lans, *supra note* 4.

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practice – until now unchallenged by Senator Goldwater and other Members of Congress – has plainly repudiated the early view of Jefferson and Madison and confirmed that of Hamilton and the later Madison.

Nor is there substance to Goldwater's general argument that, apart from the many "exceptions," when the President terminates a treaty without legislative consent he violates his constitutional duty to "take care that the laws be faithfully executed," because the Constitution makes a treaty "the supreme law of the land." This misses the point of the very case at issue. Article 10 of the treaty in question provided for its termination. In giving notice of an intent to terminate the treaty pursuant to that provision, the President was not violating the treaty but acting according to its terms – terms that were approved by the Senate when it consented to the treaty.

As Charles C. Hyde, former Legal Adviser to the Department of State, put it in his leading treatise: "The President is not believed . . . to lack authority to denounce, in pursuance of its terms, a treaty to which the United States is a party, without legislative approval. In taking such action, he is merely exercising in behalf of the nation a privilege already conferred upon it by the agreement. . . ."[12]

Treaty Termination in the Future

This suggests the proper course for senators who are troubled by the President's independent authority to terminate a particular treaty or category of treaties. At the time that each such treaty is made and submitted for their advice and consent, they should seek to condition Senate approval upon acceptance of the Senate's participation in its termination. The Senate might have done so when it consented to the 1954 defense treaty with the Republic of China, but it did not. Any attempt, at this point, to invalidate the President's notice of intention to terminate that treaty is not only unwise as a matter of enlightened China policy but also without legal foundation. As Professor Louis Henkin, one of our leading constitutional authorities has written: "Attempts by the Senate to withdraw, modify or interpret its consent after a treaty is ratified have no

12. Hyde, *supra note* 4.

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legal weight; nor has the Senate any authoritative voice in interpreting a treaty or in terminating it."[13]

Normalization of relations with China is good law and good policy. It is in our national interest, in the interest of the Chinese on both sides of the Taiwan Strait, and in the interest of peace in Asia and the world. We should not allow an argument that is based upon a misconception of the law to divert us from supporting the President's statesmanship. Rather, the Congress and the American people should focus their efforts on cooperating with the Executive Branch to develop the measures required to consolidate our new and encouraging relations with both the People's Republic and Taiwan.

13. Henkin, *supra note* 4.

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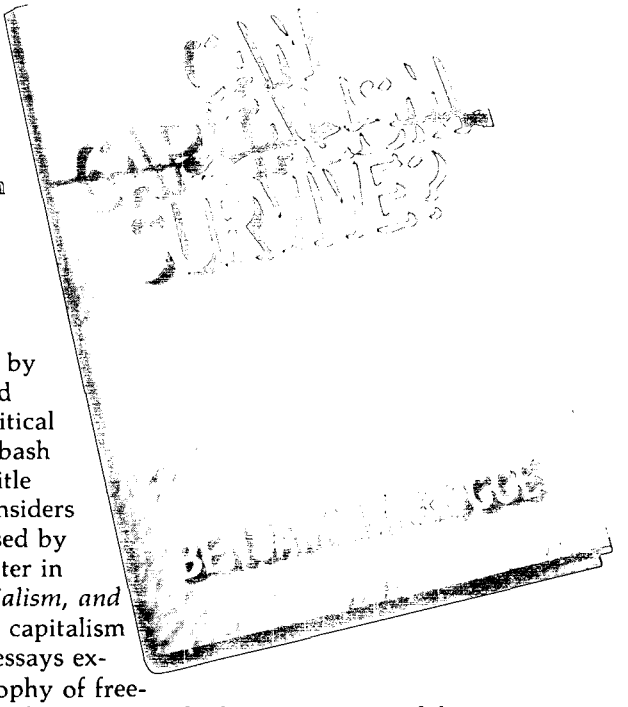

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The Energy Crisis: Two Views

THE ENERGY CRISIS: THE MORAL EQUIVALENT OF BAMBOOZLE. *By J. Clayburn La Force.* (International Institute for Economic Research, Los Angeles, California, 1978.)

ENERGY AND THE ENVIRONMENT: CONFLICT IN PUBLIC POLICY. *By Walter J. Mead.* (American Enterprise Institute for Public Policy Research, Washington, D.C., 1978.)

Since the oil embargo of late 1973, far more rhetoric than reason has been employed in the discussion of energy issues in the United States. The temporary disruption in imported crude oil supplies provided an ample opportunity for the politicians and bureaucrats to make dire predictions about impending doom due to the "energy crisis." The public was soon convinced by the pronouncements of politicians and federal government agencies that disaster could only be averted through extensive regulation and public policy designed to control virtually every aspect of energy production and consumption. Unfortunately, little analysis was provided of the political economy of the energy issue. J. Clayburn La Force's study, *The Energy Crisis: The Moral Equivalent of Bamboozle*, explores in detail the basic factors affecting the energy problem and the role which government actions have played in contributing to rather than curing the shortage of energy supplies.

La Force's treatment of the subject matter proceeds along several lines. First, he discusses in depth the differences between the terms "scarcity" and "shortages" in order to clear up the apparent confusion which has arisen between these two concepts. It is shown that any shortage of scarce energy resources is due to government interference in the marketplace which prevents the price mechanism from allocating currently available supplies and from encouraging the exploration for and production of energy resources in the future. Second, the author provides a brief but well-developed historical perspective of earlier energy "crises" that occurred in England in the fifteenth century when it appeared that firewood supplies would be exhausted and in the U.S. in the 1800s when whale oil supplies seemed to be inadequate. In both instances, of course, the price signals from the marketplace encouraged

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the adoption of substitutes: coal for firewood in England and coal oil or kerosene for whale oil in the U.S. Third, La Force surveys the extensive involvement of the government in energy markets for crude oil, natural gas, and coal in the U.S. and shows how the actions of the government have encouraged waste and inefficiency in the use of energy resources, have discouraged exploration and production of domestic energy sources, and have contributed significantly to the nation's dependence on foreign supplies. Finally, he demonstrates that enormous sums of money are at stake where energy issues are concerned and argues convincingly that energy policy benefits government and special interests in the energy sector at the expense of the consumer.

In one respect, the author's presentation is somewhat dated and incorrect, for it is asserted that a major proposal of the Carter energy plan is the extension of price controls on natural gas to the intrastate market. In fact, the President signed legislation permitting a gradual deregulation of natural gas prices, even in interstate markets. This event, however, serves to strengthen La Force's arguments rather than weaken them, for developments in the natural gas sector in recent months confirm his contention that the price mechanism will operate to relieve energy shortages. More specifically, about a year ago, forecasts were made indicating that domestic natural gas supplies would be exhausted in about a decade — images of millions of Americans shivering in the winter were carefully drawn by Department of Energy bureaucrats and politicians. In response, Liquified Natural Gas tankers were constructed to bring foreign gas to the U.S. and some firms were ordered to switch to alternative fuels. Now, it seems that natural gas is available in such abundant quantities that the current "crisis" is a glut. Producers, seeking profits, have begun intensive efforts to obtain gas from heretofore uneconomical sources such as geopressured methane. Apparently, now that the gas industry has more appropriate incentives and the role of government in the market has been reduced, ample supplies may be available for at least several centuries.

Perhaps the most disturbing aspect of this work is the pessimistic prediction which La Force makes about the future, for he believes that matters will deteriorate rather than improve. There are, however, some prospects of improvement as indicated by the deregulation of natural gas prices and the

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deregulation of the airlines. If this work is given the attention which it clearly deserves by the nation's policymakers and by the general public, there is yet hope that some positive changes may be forthcoming in energy policy.

Walter J. Mead's study for the American Enterprise Institute for Public Policy Research, *Energy and the Environment: Conflict in Public Policy*, considers issues similar to those addressed by La Force, but is broader in scope because environmental factors are also discussed. Attention is briefly given to each of five energy-environmental problems: (1) persistent energy "shortages" at prevailing prices; (2) sharp and persistent energy price increases; (3) persistently increasing dependence on foreign sources for energy; (4) increasing concern for environmental pollution; and (5) a nagging fear that sudden exhaustion of U.S. and world non-renewable energy sources will force the world into socioeconomic collapse within the next century. This last problem was created largely by the publication of *The Limits to Growth* which had a major impact on public opinion, particularly with regard to environmental issues. However, as Mead observes, the model propounded in the *Limits* did not contain a functioning price or market mechanism, the central focus of La Force's study, that operates efficiently to eliminate or at least ameliorate most of the problems identified in the *Limits*.

In section two of Mead's monograph, four hypotheses related to the causes of energy and environmental problems are examined: the market failure hypothesis; the monopoly hypothesis; the OPEC oil embargo hypothesis; and the government policy hypothesis. Briefly, the market failure hypothesis relates to industry's abuse of the nation's air and water resources as a dumping ground for waste so that some of the costs of production are imposed on the general public. Mead argues, however, that this problem is not serious because class-action suits and regulation have forced firms to internalize the full costs of production. With regard to the monopoly hypothesis, which states that energy shortages and price increases are due to monopoly within the industry, Mead contends that the existing literature on the structure of the industry does not support the hypothesis. Nor, he maintains, can the oil embargo provide an adequate explanation of the nation's continuing energy problems, because the non-Arab members of OPEC greatly increased production in order to increase profits.

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Rather, Mead asserts (in support of La Force's conclusions) that there is general agreement among academic energy economists that government regulation of energy is the primary source of energy problems:

> The record of past energy policy . . . has been conflicting and wasteful. Government policy has been, and will continue to be, a political response to pressures brought to bear on policy makers. Although different pressure groups may become dominant, government interference in the future will probably be a replay of the past if energy resources continue to be allocated through the political process.

In the third major part of his study, Mead examines some specific public policy alternatives which might be included in a "comprehensive national energy plan." Among these alternatives are government subsidies to encourage energy conservation and to modify the mix of fuels consumed, new antitrust legislation, price controls, the provision of a strategic energy reserve, and government financing of energy research. Following accepted economic theory, Mead concludes that government intervention is appropriate only if clear evidence of market failure is present or if large scale externalities exist. On the basis of this premise, only the strategic petroleum reserve for economic stability and national security and government funding of research in new energy technologies may be justified.

In sum, both La Force and Mead reach the same basic conclusion that government intervention in energy markets is unjustified and not only inefficient and wasteful, but also detrimental. These studies shed considerable light on the economic issues related to energy and help to provide a better understanding of energy problems and the role of the market mechanism in solving them.

James T. Bennett and Manuel H. Johnson

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Friedman on the Causes of Inflation and the Art of Controlling Government

TAX LIMITATION, INFLATION AND THE ROLE OF GOVERNMENT. *By Milton Friedman.* Foreword by William Murchison. (The Fisher Institute, Dallas, Texas, 1979.)

What is the most pressing social problem we face today? Public opinion polls, campaign slogans, and letters-to-the-editor columns leave little doubt. It's inflation.

So why do we have inflation? Is it because of powerful labor unions? Selfish businessmen? Energy-gorging consumers? The OPEC oil cartel? No, none of these. The reason is too many dollars chasing too few goods.

Over the last decade the number of things to buy (goods and services) has increased at a modest rate. The number of dollars people have to spend has soared. In fact, there are about twice as many dollars floating around today as there were ten years ago. That's why each single dollar will buy about half as much today as it used to.

What determines how many dollars there are in the economy? The government. Unlike we ordinary mortals, the government can legally create the money it spends. When it needs more dollars, it simply starts up the printing presses. If you and I did that, it would be called counterfeiting. Fact is, you and I can't even destroy our paper money. The government has a monopoly on that privilege, too.

So let's start again. What is the cause of inflation? Answer: the government.

This type of thinking isn't exactly popular in Washington. But it has become increasingly popular among professional economists, largely because of the efforts of one man: Professor Milton Friedman, Nobel Laureate in Economics.

It was not always so. Back in the 1960s most leading economists were disciples of John Maynard Keynes. The dominant view then was that the private enterprise system was essentially unstable. The uncoordinated actions of consumers, producers and investors took the economy on a rollercoaster ride of booms and busts. Economists thought that full employment, stable prices and economic growth required the steady hand of government at the controls.

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Politicians especially liked the Keynesian view. It all seemed to justify more government spending, more regulation, and, best of all, more new money. By cranking up the printing presses, politicians could finance all those spending projects the voters back home liked so well. They didn't even have to raise taxes. All this received the stamp of approval of the best economists in the country. It almost seemed too good to be true.

In those days Milton Friedman was almost alone in holding a different theory. According to Friedman, the basic cause of the boom and bust cycle was not any defect of capitalism. It was not the fault of the private sector. Rather, it was caused by government, especially government mismanagement of the money supply.

Friedman is an articulate and persuasive proponent of his views. But he is also something more. He is a scientist *par excellence*. Unlike a lot of other economists, Friedman didn't just theorize. He meticulously went after the evidence. Through years of painstaking research, he produced study after study to show that he was right. The effort paid off. Today, Keynesian theory is on the "outs." Friedman's monetarism is definitely "in."

Friedman is now retired from the University of Chicago, where he fathered the "Chicago School" of economics. There is very little evidence of retirement, however. This group of essays, published by the Fisher Institute of Dallas, shows the mind of the great scientist is as keen as ever.

Of special interest is Friedman's Nobel Lecture, in which he analyzes the infamous inflation-unemployment tradeoff. Until recently, most economists (especially those who were slow in converting from Keynesianism) believed that you could not reduce the economy's inflation rate without suffering a large dose of unemployment. That implied that a painful tradeoff existed.

The tradeoff is an illusion, and Friedman shows why. For short periods of time the two rates do go in opposite directions. But not for long. Eventually high rates of inflation cause high rates of unemployment as well. Stagflation is not a unique American experience. Friedman shows that it is happening everywhere.

In order to have a low rate of unemployment, we first have to achieve a low rate of inflation. That means that govern-

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ment has to stop printing so much new money. Can we get the government to do that? It won't be easy.

Friedman shows how the government actually gains by causing inflation. The new money it creates can be used to finance popular spending programs. The resulting inflation pushes people into higher tax brackets. This means more revenue to finance still more spending. In addition, inflation reduces the value of the national debt. Holders of government bonds know that inflation has reduced the value of their assets. What they may not realize is that their loss is the government's gain.

To protect the public and give the government better incentives, Friedman proposes wide-scale "indexing." Tax rates should be adjusted as the rate of inflation changes, so that the real value of the taxes we pay does not go up when the government inflates. Government bonds should be indexed, too. Holders of the government's debt should be compensated for any losses they suffer as a result of inflation.

The real job, though, is to reduce the level of government spending. Today, total government spending amounts to forty percent of national income. One way or another, the government takes about forty cents of every dollar we earn. That's way too much, according to Friedman. Not only does more government spending lead to more new money and more inflation, it also limits our personal freedom to spend our income as we choose. On top of that, we're not getting our money's worth from government.

Friedman believes there should be a legal limit to the amount that government can spend. Failing that, he favors tax limitation laws, like Proposition 13. Tax reductions, by themselves, don't actually reduce our real tax burden. The government could make up the difference by simply printing more money. But Friedman believes that the tax limitation movement sends an unmistakable signal to politicians: spend less. And politicians do not ignore such signals.

Also included is a delightful essay on John Kenneth Galbraith, the well-known advocate of more government spending. Friedman gives a point by point refutation of Galbraithian economics. Professional economists have generally ignored Galbraith. The general public has not. Friedman shows why good economists reject Galbraith from start to finish: he is simply wrong.

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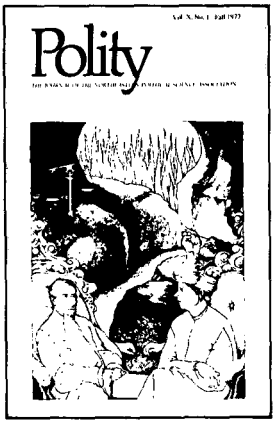
A word about the Fisher Institute: It is not just another stodgy think-tank where the specialists talk only to each other. Its purpose is to bridge the gap between the specialist economic writers and the general public in language that we all can understand. There is no better way to achieve that goal than by starting with these essays by Milton Friedman.

John C. Goodman



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What High School Students Learn About History and Government

VALUES IN AN AMERICAN GOVERNMENT TEXTBOOK: THREE APPRAISALS. *By Michael Novak, Jeane Kirkpatrick and Anne Crutcher.* (Ethics and Public Policy Center, Georgetown University, Washington, D.C., 1978.)

HOW THE COLD WAR IS TAUGHT: SIX AMERICAN HISTORY TEXTBOOKS EXAMINED. *By Martin F. Herz.* (Ethics and Public Policy Center, Georgetown University, Washington, D.C., 1978.)

Despite the rather random sources through which the young learn about history and government, including television and other media, the chief instrument by which knowledge of history and government is transmitted is the school. Virtually every state in the union requires its high school graduates to complete a course in both history and government. Obviously, the primary assumption upon which these requirements rest is that a literate and informed citizenry is necessary in a democracy. Indeed, how can a republican nation survive unless each generation understands for the most part the basic rudiments of that nation's past and its form of government?

The textbook is the only structured indicator within the school from which an understanding can be gained of what and how the students are taught. Teachers bring to their classrooms a variety of backgrounds, values and outlooks, but the textbook provides the record that can be analyzed.

Recognizing the enormous importance of textbooks in informing our young people, the Ethics and Public Policy Center of Georgetown University has initiated a series of monographs, the purpose of which, according to the Center's Director, Ernest W. Lefever, is to "assess how well widely used social science textbooks transmit the core values of our American heritage without short-changing American pluralism." These core values include respect for the human person, individual freedom, respect for private property, the rule of law and limited government and are "enshrined in the Declaration of Independence and the Constitution, and should be taught without apology as the essential foundation for a free and democratic society."

The first monograph in the series, *Values in an American Government Textbook*, is three critiques of the widely-used

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high school text, *American Government in Action* by Miriam Roher Resnik and Lillian Herlich Nerenberg. The critics are theologian, columnist and professor, Michael Novak; political scientist Jeane Kirkpatrick; and journalist with *The Washington Star*, Anne Crutcher. A response from the textbook's authors to their critics is included.

The critiques are intriguing because the critics, as Lefever points out in the introduction, come from the same general liberal background as the authors of the text. Given the fact that no work in social science or history can possibly be neutral or value-free and that any work will reflect the point of view and values of its author, are there, nevertheless, certain standards by which the fairness, accuracy, approach and scope of a text may be judged?

The Ethics and Public Policy Center assumes that there are such standards, and many parents across the nation, deeply concerned with the quality of their children's textbooks, will enthusiastically agree that intensified public debate on this issue is very much in order.

Michael Novak is disturbed by the uncritical acceptance of big government which he finds pervades the textbook. For example, the textbook describes the purpose of government as the satisfaction of people's needs. In discussing the "kinds of government," an extremely important concept for high school students to grasp, the authors fail to distinguish between autocracy, dictatorship and oligarchy on the one hand, and totalitarian government on the other. Instead, they place all three of these forms of government under the category of "totalitarian forms of government." This is an illustration of how political bias results in concepts that are simply not factual.

Jeane Kirkpatrick, speaking from the viewpoint of the professional political scientist, is disturbed by the "trivialization" of government she sees in *American Government in Action*. She is concerned about intellectual sloppiness illustrated, for example, when the text portrays the citizens of the United States as the American government's "customers."

Americans from the private sector and those sympathetic to its continued existence may well ponder the implications of such notions authoritatively taught to young people in required government courses. Are these the "principles of government" our state legislatures had in mind when they required the

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teaching of government courses?

Dr. Kirkpatrick is also concerned that this American government text gives only a very superficial and cursory treatment of the great political tradition and the political thinkers who have contributed to the formation of the American system of government. Instead of introducing to the students some of the more profound questions such as the nature of the state and the idea of authority to stimulate the intellect, all too often today's trendy textbooks reflect a banal "pop culture" view of reality.

Washington Star journalist, Anne Crutcher, questions the authors' treatment of the causes of crime. The authors present the point of view that the primary cause of riots, violence and crime is "poverty" and that the cure for these problems is most likely found in greater government involvement in social programs. Mrs. Crutcher notes the absence in the text of the notion of individual moral and social responsibility. The concept of responsibility for one's behavior is indeed a vital "core value" of our society. The irony is that many school systems, in attempting to deal with rampant vandalism and delinquency, are initiating courses in "moral education" and "values education" based on the premise that the students must be taught to "weigh the alternatives" and "make up their own minds." Many of these students may be using a government textbook in which the idea that man has a moral will that exists independent of financial and social status is completely omitted.

The second monograph in the series, *How the Cold War is Taught*, is an analysis by Martin F. Herz, career Foreign Service ambassador and historian, of six leading American history textbooks designed for the eleventh grade. Herz assumes that, although a point of view by the author is inevitable, the essential question is whether a text presents a coherent picture of the major events of the Cold War period. Herz states that this involves judgments about accuracy and fairness and whether the presentation of important events provides perspective.

A few of the interesting items that Herz's content analysis revealed include the following significant data. Four out of the six textbooks fail to clearly state that communists took over the Eastern European countries by force in violation of the Yalta agreements. In their treatment of Cuba, only two of the

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six texts mention that under Castro there are no free elections and that the Castro regime is characterized by harsh treatment of political opponents. Three of the six do not mention that Ho Chi Minh was a communist. Only two of the six clearly cite the communist nature of the Vietminh, National Liberation Front and the Viet Cong in the Vietnamese conflict. At the same time that several texts present the Diem regime as "repressive," no balancing comment on the nature of the North Vietnamese communist regime is made.

Herz found that only one of the six texts actually presents U.S. foreign policy during the Cold War with what could be called a favorable point of view. On the contrary, most appear to give the motives and policies of the Soviet Union the benefit of the doubt.

Ambassador Herz's comments on the "inquiry" method of approach to history is of interest as many parents have objected to this approach. Using the inquiry method, the authors include excerpts from original documents introduced with comment and followed by questions. Herz finds the inquiry approach "particularly ill suited" to the teaching of a complicated series of events such as that which characterizes the Cold War period. For example, one of the inquiry textbooks gives only negative readings on the U.S. policy of containment and presents no readings that give the case for containment. The problem with the inquiry method is that the authors can readily bias the students' reading of the documents through the introductory statements and the choice of excerpts from documents, excerpts that tend to support the authors' political point of view.

Commenting on *How the Cold War is Taught*, Senator Daniel Patrick Moynihan recalled the dictum that "he who controls the past controls the future." Perhaps it is time for those who value academic integrity and intellectual rigor to generate some much-needed competition in the textbook writing field.

Onalee McGraw

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Two New Books On the China Decision

U.S. CHINA POLICY TODAY. *By David Nelson Rowe*. (University Professors for Academic Order, Washington, D.C., 1979.)
ABOUT FACE: THE CHINA DECISION AND ITS CONSEQUENCES. *By John J. Tierney, Jr.* (Arlington House, New Rochelle, New York, 1979.)

Dr. Rowe's monograph is a comprehensive political analysis of U.S.-China policy up to 1979 and an intensive study of this policy under the Carter Administration. Dr. Rowe, a retired professor of International Relations at Yale, charges President Carter with acting in "clear disregard of the will of Congress and the American people" in his pronouncement recognizing the People's Republic and labels his promise to continue to sell defensive weapons to Taiwan "the most pure and pristine embodiment of the Carter Administration's proclivity for wishful thinking." Total withdrawal of U.S. troops from Taiwan will greatly reduce military security for the general area and create a "vacuum of great-power power" which, Dr. Rowe predicts, will not last for long.

Dr. John J. Tierney, Jr.'s timely anthology contains forty essays by various China experts such as Richard Walker, Franz Michael, Ray S. Cline, and Jeremiah Novak, and several senators and congressmen including Robert Dole, Jake Garn, Barry Goldwater, Richard Stone, and Edward Derwinski which discuss various issues raised by President Carter's recent decision to recognize the People's Republic of China and to abrogate the defense treaty with Taiwan. This collection is not meant to be an argument against U.S. relations with Peking, but rather a challenge to the wisdom and tactics of ending the relationship with the Republic of China and a reminder of the historic magnitude of President Carter's recent decision.

B.A.C.

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New Books and Articles in Public Policy

G. C. Allen

How Japan Competes (Institute of Economic Affairs, 2 Lord North Street, London SW1, England).

Bruce R. Bartlett

Cover-up: The Politics of Pearl Harbor, 1941-1946 (Arlington House, New Rochelle, New York).

James Bennett and Manuel Johnson

Free Riders in the Labor Union: Artifice or Affliction?: This study finds little support for the "publicness" of labor union services. Contact Professor Manuel Johnson, Department of Economics, George Mason University, Fairfax, Virginia 22030.

The Impact of Right to Work Laws on the Economic Behavior of Local Unions: A Property Rights Perspective: This paper develops a theoretical model of the impact of right-to-work laws on the economic behavior of local unions. Contact Professor James Bennett, Department of Economics, George Mason University, Fairfax, Virginia 22030.

John Burton

The Trojan Horse: Union Power in British Politics (Adam Smith Institute, 50 Westminster Mansions, Little Smith Street, London SW1, England). Dr. Burton's central thesis is that the power of British unionism cannot be explained merely by examining the economic dimensions of that power, such as the power of monopoly and the threat of strikes. The explanation lies in the "interactive manner" by which the unions' economic strength and partisan political strength have in turn reinforced each other. Unions have been able to dictate changes in law that in many respects put them "above the law of the land that holds for all other individuals and institutions" – such as the change that gives them the unique legal right to "induce" others to break their commercial contracts. British unionism then exploits these changes in law by reinforcing its economic power, which then reinforces its influence and check on Parliament. And so forth.

Stephen P. Cohen and Richard L. Park

India: Emergent Power? (National Strategy Information Center, 111 East 58th Street, New York, New York 10022).

Conflict: An International Journal for Conflict and Policy Studies:

This new journal, published by Crane, Russak, & Co., in cooperation with the Institute for Conflict and Policy Studies, has as its objective the presentation of articles on conflicts short of war. The premier issue, edited by George K. Tanham, includes articles by Brian Jenkins, Gerald Sullivan, Brooks McClure, and Phillip P. Katz. (Crane, Russak, & Co., Inc., 347 Madison Avenue, New York, New York 10017.)

Alvin Cottrell and Frank Bray

Military Forces in the Persian Gulf (Georgetown Center for Strategic and International Studies, 1800 K Street, N.W., Washington, D.C. 20006).

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James R. Dennis
"Roll-Call Votes and National Security: Focusing in on the Freshmen" (*Orbis*, Fall 1978).

Theodore Draper
"The Idea of the 'Cold War' and Its Prophets" (*Encounter*, February 1979).

Charles K. Ebinger
International Politics of Nuclear Energy (Georgetown Center for Strategic and International Studies, 1800 K Street, N.W., Washington, D.C. 20006).

Ethics and Public Policy Center
The Press in American Politics (Ethics and Public Policy Center, 1211 Connecticut Avenue, N.W., Washington, D.C. 20036). This monograph includes articles by Senator J. William Fulbright, Raymond Price, and Irving Kristol.

Bernard J. Frieden
The Environmental Protection Hustle (The MIT Press, Cambridge, Massachusetts). Using case studies from northern California, Prof. Frieden examines the legitimacy and consequences of environmentalist arguments to limit housing development.

Jules Gerard
The Proposed D.C. Amendment (Missouri Council for Economic Development, 124 East High Street, Jefferson City, Missouri). The study discusses constitutional, political, and legal issues relative to ratification of the D.C. Amendment.

Leslie F. Goldstein
"The Politics of the Burger Court Toward Women" (*Policy Studies Journal*, Winter 1978).

Daniel O. Graham (editor)
20 Basic Questions about SALT II (Coalition of Peace Through Strength, 499 South Capitol, Mayfair Building, Suite 500, Washington, D.C. 20003).

Edward Greenberg, William J. Marshall, and Jess Yawitz
The Technology of Risk and Return (Center for the Study of American Business, Washington University, St. Louis, Missouri 63130). Several models are presented to illustrate the interdependence of the micro-economic decisions of the firm and the market's valuation of its capital assets.

Ian Greig
Iran and the Lengthening Soviet Shadow (Foreign Affairs Research Institute, Arrow House, 27-31 Whitehall, London SW1A 2BX, England).

Walter F. Hahn and Robert Pfaltzgraff
The Atlantic Community and Crisis: Redefining the Atlantic Relationship (Institute for Foreign Policy Analysis, Central Plaza Building, 675 Massachusetts Avenue, Cambridge, Massachusetts 02139).

Robert Hessen
In Defense of the Corporation (Hoover Institution, Stanford University).

Hoover Reprint Series: The Hoover Institution has initiated a reprint

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series of articles written for scholarly journals and magazines by its fellows. Distribution is complimentary. Contact Mr. George Marotta, Assistant Director, Public Affairs and Communications, Hoover Institution on War, Revolution, and Peace, Stanford University, Stanford, California 94305.

Institute for Contemporary Studies

Tariffs, Quotas & Trade: The Politics of Protectionism (Institute for Contemporary Studies, 260 California Street, Suite 811, San Francisco, California 94111).

Institute of Economic Affairs

Confrontation: Will the Open Society Survive to 1989? (Transatlantic Arts, Inc., North Village Green, Levittown, New York 11756). This publication from the Institute of Economic Affairs includes articles by F. A. Hayek, Ralph Harris, Arthur Seldon and the Duke of Edinburgh.

International Institutes in the Field of Conflict Studies (Institute for the Study of Conflict, 12/12A Golden Square, London W1R 3AF, England). This directory contains brief descriptions of thirteen institutes involved in conflict studies.

David C. Jordan

Post Franco Spain and the Atlantic Community (Institute for Foreign Policy Analysis, Central Plaza, 10th Floor, 675 Massachusetts Avenue, Cambridge, Massasuchetts 02139). The author examines internal developments, including the recent national election, the emerging political leadership, the role of the King, and the prospects for completing successfully the transition to representative government in Spain.

The Journal of the Institute for Socioeconomic Studies (Winter 1978): The topic of this issue is "Can We Control Government?" and includes articles by James R. Thompson, Governor of Illinois; and Rocco C. Siciliano, former Under Secretary of Commerce.

Jack F. Kemp

"Congressional Expectations of SALT II" (*Strategic Review*, Winter 1979).

William Kintner and John F. Cooper

A Matter of Two Chinas: The China-Taiwan Issue in U.S. Foreign Policy (Foreign Policy Research Institute, 3508 Market Street, Suite 350, Philadelphia, Pennsylvania 19104).

Everett Carll Ladd

Where Have All the Voters Gone? (Hoover Institution, Stanford, University). This book examines the deterioration of both the Republican and Democratic Parties in America.

John P. McCarthy

Hilaire Belloc: Edwardian Radical (Liberty Press, 7440 North Shadeland, Indianapolis, Indiana 46250).

Richard B. McKenzie

Caution: Consumer Protection May Be Hazardous to Your Health (International Institute of Economic Research, 1100 Glendon Avenue, Suite 1625, Los Angeles, California 90024).

Charles Burton Marshall

Looking for Eggs in a Cuckoo Clock: Observations on SALT II (Com-

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mittee on the Present Danger, 1028 Connecticut Avenue, N.W., Washington, D.C. 20036).

Constantine Menges

Spain: The Struggle for Democracy Today (Georgetown Center for Strategic and International Studies, 1800 K Street, N.W., Washington, D.C. 20006).

Stephen Miller

"A Good Word for Bureaucracy" (*The American Spectator*, February 1979).

Daniel Nagin

"The Impact of Determinate Sentencing Legislation on Prison Population and Sentence Length: A California Case Study" (*Public Policy*, Winter 1979).

National Strategy Information Center

The Fateful "P's and Q's" of SALT: Past, Present and Yet to Come (NSIC, 111 East 58th Street, New York, New York 10021).

Stephanie Neuman

"Security, Military Expenditures and Socioeconomic Development: Reflections on Iran" (*Orbis*, Fall 1978).

Paul H. Nitze

SALT II: The Objectives v. the Results (Committee on the Present Danger, 1028 Connecticut Avenue, N.W., Washington, D.C. 20036).

Nimrod Novik

On the Shores of Bab al-Mandab: Soviet Diplomacy and Regional Dynamics (Foreign Policy Research Institute, 3508 Market Street, Suite 350, Philadelphia, Pennsylvania 19104).

Howard A. Palley

"Abortion Policy: Ideology, Political Cleavage and the Policy Process" (*Policy Studies Journal*, Winter 1978).

Pathfinder: The first issue of the official newsletter of the Center for Education and Research in Free Enterprise appeared in December 1978. It featured articles on the decline in public confidence in business; the nature of unemployment statistics; government price controls; and an economic education program in Lubbock, Texas. The newsletter is edited by Drs. John W. Allen and Morgan O. Reynolds and will be published six times a year. Copies are complimentary. Contact Dr. John W. Allen, Acting Director, Center for Education and Research in Free Enterprise, Texas A&M University, College Station, Texas 77843.

Svetozar Pejovich

Fundamentals of Economics (The Fisher Institute, 12180 Hillcrest Road, Dallas, Texas 75230).

Richard Perle

"Echoes of the 1930s" (*Strategic Review*, Winter 1979).

Policy Report: The premier issue of this monthly publication, published in January 1979, featured an article, entitled "Social Security: Has the Crisis Passed?" by Professor Carolyn Weaver of the Virginia Polytechnic Institute. The editorial board consists of Profs. Hayek, Brozen, O'Driscoll, Kirzner, Johnson, and Yeager. (CATO Institute, 1700 Montgomery Street, San Francisco, California 94111).

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Benjamin A. Rogge
Can Capitalism Survive? (Liberty Press, 7440 North Shadeland, Indianapolis, Indiana 46250).

Eugene V. Rostow
"The Case Against SALT II" (*Commentary*, February 1979).

David N. Rowe
U.S. China Policy Today (University Professors for Academic Order, Inc., 635 S.W. 4th Street, Corvallis, Oregon 97330). An analysis of the recent Carter decision to recognize the People's Republic of China.

George William Rutler
"The Meaning of Solzhenitsyn: A Response to His Harvard Address" (Economic Institute for Research and Education, P. O. Box 611, Boulder, Colorado 80302). This paper is the first to be published by the Economic Institute for Research and Education, a new organization whose objective is "to support and promote the American free enterprise economic system." The president of EIRE is Dr. Fred R. Glahe, professor of economics at the University of Colorado.

Robert W. Rycroft
"Energy Policy Feedback: Bureaucratic Responsiveness in the Federal Energy Administration" (*Policy Analysis*, Winter 1979).

Dimitri Simes (editor)
The Soviet Leadership in Transition (Georgetown Center for Strategic and International Studies, 1800 K Street, N.W., Washington, D.C. 20006).

Society (Transaction-Social Science and Modern Society): The issue for January-February 1979 features a symposium on the topic "Is There a New Class?" and includes contributions from B. Bruce-Briggs, Daniel Bell, Michael Harrington, Seymour Martin Lipset, Aaron Wildavsky, Jeane Kirkpatrick, Andrew Hacker, and Irving Louis Horowitz.

Roger Speed
The Strategic Deterrents in the 1980s (Hoover Institution, Stanford University).

Richard Staar (editor)
Yearbook of International Communist Affairs 1979 (Hoover Institution, Stanford University).

Ellen L. Stein
Dynamics of Soviet Oil and Natural Gas; Access to Future Energy Sources (Georgetown Center for Strategic and International Studies, 1800 K Street, N.W., Washington, D.C. 20006).

Peter Steinfels
"The Reasonable Right" (*Esquire*, February 13, 1979). This article is a survey of "neoconservatism" in the United States.

Edith Stokey and Richard Zeckhauser
A Primer for Policy Analysis (W. W. Norton & Company, Inc., New York).

Roger Swearingen
The Soviet Union and Post-War Japan (Hoover Institution, Stanford University).

Terrorism: An International Journal (Crane, Russak, & Co., Inc., 347 Madison Avenue, New York, New York 10017). This new journal

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includes articles by Abraham Kaplan, Harold D. Lasswell, Peter C. Sederberg and others.

David J. Theroux (editor)
The Energy Crisis: Government and the Economy (CATO Institute, 1700 Montgomery Street, San Francisco, California 94111).

W. Scott Thompson
Power Projection: A Net Assessment of U.S. and Soviet Capabilities (National Strategy Information Center, 111 East 58th Street, Department AP, New York, New York 10002).

Richard Walker
The Human Cost of Communism in China (American Conservative Union Education and Research Institute, 600 Pennsylvania Ave., S.E., Washington, D.C. 20003).

Barry Weingast
The Renaissance of The Federal Trade Commission (Center for the Study of American Business, Washington University, St. Louis, Missouri 63130).

Jan de Weydenthal
The Communists of Poland (Hoover Institution, Stanford University).

Ralph K. Winter
Government and the Corporation (American Enterprise Institute, 1150 17th Street, N.W., Washington, D.C. 20036).

Compiled by Robert Blake

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Introducing the Editorial Board

The Publisher, EDWIN J. FEULNER, JR., is the President of The Heritage Foundation. He was formerly Executive Director of the Republican Study Committee in the U.S. House of Representatives and has served as an aide to Secretary of Defense Melvin R. Laird and to Rep. Philip M. Crane. He was educated at the Wharton School of Finance, the London School of Economics, and other colleges. He is the author of *Congress and the New International Economic Order,* the editor of *China—The Turning Point* and co-author of six other books. He is a member of the International Institute for Strategic Studies and is Treasurer of the Mont Pelerin Society.

The Editor, ROBERT L. SCHUETTINGER, is Director of Studies of The Heritage Foundation. He was formerly a foreign policy aide in the U.S. House of Representatives and has taught political science at The Catholic University of America, St. Andrews University in Scotland and Yale University. He studied at Columbia, Oxford and the University of Chicago's Committee on Social Thought. He is the newly elected president of a national professors' organization (UPAO). He is the author of the newly-published *Lord Acton: Historian of Liberty*, and of *Saving Social Security,* and *A Research Guide to Public Policy*; he is also the co-author of *U.S. National Security Strategy in the Decade Ahead* and of *Point: Counterpoint* as well as of seven other books in international relations. He is a member of the Policy Studies Organization, the International Institute for Strategic Studies and the Mont Pelerin Society.

The Chairman of the Editorial Board, DAVID I. MEISELMAN, directs the graduate economics program at Virginia Polytechnic Institute in Reston. He has taught at the University of Chicago, The Johns Hopkins University and Macalaster College; he has also served as a senior economist with the Committee on Banking and Currency in the U.S. House of Representatives and as a consultant to several government agencies. He is the editor of *Varieties of Monetary Experience* and the author of several other books and numerous articles. A former President of the Philadelphia Society, he is also a member of the Mont Pelerin Society.

KINGSLEY AMIS, the novelist, is also a frequent contributor to such journals of opinion as *The New Statesman* and *The Spectator*. He is also the co-author of several works on educational policy.

GEORGE F. GILDER has been a Fellow of the Kennedy Institute of Politics at Harvard and a staff aide to Senators Jacob Javits and Charles McC. Mathias. He has served as Managing Editor of *The New Leader* and as an editor of *The Ripon Quarterly.* The author of two books in sociology, he is currently working on a study of unemployment.

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STEPHEN HASELER was a Distinguished Scholar in The Heritage Foundation during the academic year 1977-78 doing research on Eurocommunism. The author of *The Gaitskellites* and *The Death of British Democracy*, he is principal lecturer in politics in City of London College and is a former Labor Party Member of the Greater London County Council. With ROY GODSON, he is author of the newly published *Eurocommunism.*

HAROLD M. HOCHMAN is Professor of Economics and Public Administration in The Graduate Center and in the Baruch School of Business of the City University of New York. He is a frequent consultant to government agencies and contributor to scholarly journals. He is also research director of the International Center for Economic Policy Studies.

HERMAN KAHN is the Director of the Hudson Institute. He is the author of many books, including *The Emerging Japanese Superstate.* He recently edited *The Future of the Corporation* and is a member of the Council on Foreign Relations.

ERNEST W. LEFEVER is the Director of the Ethics and Public Policy Center of Georgetown University. Formerly a Senior Fellow in Foreign Policy Studies at the Brookings Institution, he is the author or editor of *Ethics and U.S. Foreign Policy, Ethics and World Politics, The Limits of Foreign Policy, Arms and Arms Control* and *TV and National Defense.*

HENRY G. MANNE is Distinguished Professor of Law and the Director of the Law and Economics Center of the University of Miami in Coral Gables, Florida. He is the author of many books, including *Economic Policy and the Regulation of Corporate Securities.*

ALLAN H. MELTZER is Maurice Falk Professor of Economics and Social Science in Carnegie-Mellon University Graduate School of Industrial Administration. He is co-author of *A Study of the Dealer Market* and *An Analysis of Federal Reserve Monetary Policymaking.*

ROBERT MOSS is the author of several books, including *The Collapse of Democracy,* and is editor of *The Economist's* confidential weekly, *Foreign Report.* He is a member of the International Institute for Strategic Studies.

JOHN O'SULLIVAN is an editorial writer for *The Daily Telegraph* of London. A former lecturer in politics he is the co-author of several books on economics and world affairs.

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ERNEST VAN DEN HAAG is Visiting Professor of Criminology in the Law School of the State University of New York at Albany. Besides contributing to *Ethics, Encounter, The American Scholar, Commentary* and many other journals, he is the author of *Punishing Criminals, Political Violence and Civil Disobedience* and other books. He is a member of the Council on Foreign Relations.

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